

CONDITIONS OF SALE

1. ORDERS

- (a) While MPB Industries Ltd (hereinafter called "the Company") reserve the right to accept telephone orders, such orders should always be confirmed in writing the same day by the buyer and marked "confirmation". Any orders not so marked will be treated as fresh orders and the buyer shall be responsible for the consequence of any resulting duplication.
- (b) The Company reserves the right to refuse any order or offer of an order.
- (c) No conditions or stipulations in or attached to the buyer's form of order which are inconsistent with the Company's business arrangements or Conditions of Sale or which purport to add to or modify them in any way shall have effect unless expressly accepted in writing by the Company. In the absence of such acceptance by the Company, the buyer shall be deemed to have withdrawn or waived his said conditions or stipulations and to contract solely on the basis of the Company's Conditions of Sale.

2. QUOTATIONS

All quotations are subject to confirmation by the Company on receipt of buyer's official order, and no Contract shall be concluded until such confirmation has been despatched by the Company.

3. CANCELLATION OF ORDERS

No cancellation of an order will be effective unless in writing and until accepted by the Company. The Company reserves the right to refuse to accept any cancellation of an order and in particular no cancellation will be accepted of orders for goods and/or services to special requirements or not normally stocked by the Company if the manufacture or obtaining by the Company of such goods is in process or has been completed.

4. PRICES

- (a) All prices are quoted subject to revision or withdrawal without notice.
- (b) All prices in respect of orders for forward delivery are subject to the Company's right to increase them if they are affected by general increases in cost of labour or raw material or other unforeseen causes.
- (c) All prices are quoted "ex works" for U.K. destinations unless otherwise agreed and carriage and packing will be charged for.
- (d) All goods will be charged for as per quotation or at prices current at the time of despatch if affected by general increases in cost of labour or raw material or other unforeseen causes and all orders are accepted by the Company on that understanding.

5. PAYMENT

- (a) All invoices are NET and no settlement discount is allowed.
- (b) Payment is due 30 days after the date of invoice except where the Company stipulates "cash with order" terms.
- (c) The Company reserves the right to charge interest at the rate of 2% per calendar month on any monies outstanding beyond the due date.
- (d) No special terms of payment will be operative unless confirmed in writing by the Company.
- (e) The Company reserves the right to suspend or cancel any unfulfilled order where payment for any previous order remains outstanding after due date of payment or where in the reasonable opinion of the Company the buyer is unlikely to be able or willing to pay his debts as they fall due.

6. RESERVATION OF TITLE

- (a) The title in the goods remain with the Company until such time as the Company has received payment in full in respect of the goods and all other sums due to the Company at the date of delivery of the goods.
Accordingly, all goods sold and delivered by the Company to the buyer shall at all times be stored separately and identified as the property of the Company until payment for them has been received in full or until earlier use and consumption thereof.
- (b) The insurable risk in the goods to which the contract relates shall pass to the buyer as soon as the goods are delivered to the buyer, the buyer's agent, or carrier for the purpose of such delivery, whichever is the sooner.
- (c) The buyer will, until payment or consumption as aforesaid, hold the goods on a fiduciary basis only and will deliver up to the Company upon demand any of the Company's goods in the buyer's possession.
In the event that any of the goods have been disposed of the buyer will hold any monies received for the benefit of the Company.
- (d) If the buyer shall default in the punctual payment of any sum due to the Company whether under this contract or otherwise the Company shall be entitled forthwith to repossess any goods which remain the property of the Company and the buyer shall for the purpose afford the Company access to, and the Company shall be entitled to enter any premises of which the buyer is in occupation or to which he has access and where any goods may then be.

7. NON-DELIVERY AND DAMAGE IN DELIVERY

All goods will be consigned at carrier's risk (unless sent by passenger train) and the Company will accept no liability for partial loss, damage or non-delivery. On delivery packages should be signed for as "not examined" but if loss or damage is apparent, they should be signed for accordingly. In the event of partial loss or damage the buyer must (a) within three days of delivery give notice in writing to the carriers (otherwise than on carriers' documents) and at the same time notify the Company in writing and (b) within seven days of delivery make a claim against the carrier or accept any special arrangements which the Company may be able to make on the buyer's behalf. In the event of non-delivery, the buyer must give notice in writing thereof to the Company within ten days of the date of the Company's invoice.

8. DELIVERY

The Company shall not be responsible for, nor shall the buyer acquire any rights against the Company in respect of any failure or delay in delivery from the following causes: -

- (a) Failure or delay in delivery of raw materials.
- (b) Strikes, Lockouts or trade disputes.
- (c) Destruction or damage (by fire or otherwise) or breakdown of machinery, plant, buildings or premises.
- (d) Breakdown or failure of electric or other power.
- (e) Breakdown in transit.
- (f) Default (including breach of contract of sub-contractors).
- (g) War or conditions arising as the result of war or anticipated war.
- (h) Any other cause unavoidable or beyond the Company's control. In the case of delay from any of the above causes, the delivery date as laid down in the Contract shall be postponed for a reasonable period.

9. DELAY IN TAKING DELIVERY

If the buyer fails or refuses to take delivery of the goods on the date as laid down in the contract, he shall be liable to the Company for any loss occasioned by such failure or refusal, and for any charges thereby incurred by the Company for the care and custody of the goods whether he has been specifically requested to take delivery of the goods or not.

10. CONDITIONS AND WARRANTIES

No warranty or conditions, whether statutory or otherwise, as to the fitness of the goods to be supplied under the contract for any particular purpose is given or shall be implied and the Company is not to be liable for consequential loss or damage of any kind or description arising from any goods sold by the Company.

11. RETURN OF GOODS

No return of goods will operate to affect the liability of the buyer under the contract unless such return is accepted by the Company in writing and no such acceptance will be given unless previous notice of intention to return with the reason therefore and quoting reference number of Release Note, Invoice or Contents Note is given to the Company and after acceptance by the Company of such notice the goods are returned to the Company carriage paid and in good condition.

12. BREAK CLAUSE

All Tenders, Quotations and Acceptance of Orders are subject to the conditions of the Break Clauses contained in the Standard Conditions of Government Contracts for Stores Purchases current at the time.

13. GUARANTEE

All goods manufactured by the Company are guaranteed to the extent hereinafter mentioned against defects arising from faulty material or workmanship, subject to the goods not having suffered maltreatment, inattention or interference. The Company's liability under this guarantee is limited to replacement of any part or parts found defective within a period of 12 months after date of delivery. The customer/representative will be responsible for the cost of returning the goods to the Company.

14. CUSTOMER'S PROPERTY

The Company will take responsible care of the customer's property in its custody but shall not be held responsible for any loss or damage arising from any cause, except to the extent of the Company's insurance policies.

15. VALIDITY

Unless otherwise stated quotations are open for acceptance with 30 days only from the date hereof and is subject to confirmation at the time of such acceptance.

16. LEGAL CONSTRUCTION

Every contract to which these conditions apply shall be construed and take effect in accordance with the Laws of England and the parties shall accept the exclusive jurisdiction of the English Courts.

17. LIMITATION OF LIABILITY

Except for death or injury caused by the Company's negligence, the Company's total liability for any and all damages, claims or causes of action howsoever arising (including, without limitation, damage, claims or causes of action by virtue of injury, by breach of contract or statutory duty, negligence, strict liability or infringement of Intellectual Property Rights) shall not exceed the Contract Price. Notwithstanding the foregoing, the Company shall not be liable to the Buyer in any circumstances for any loss of profits, contracts, use, data or consequential or indirect loss nor, save as set out in Clause 18 and in the preceding provisions of this Clause, for any loss or damage of any kind whatsoever, howsoever arising, claimed against or suffered by the Buyer.

18. PATENT INFRINGEMENT etc.

18.1 Subject to the limitations in Cause 17, the Company shall indemnify the Buyer in the event of any claim for infringement of Letters Patents, Registered Design, Design Right, Trade Mark or Copyright ("Intellectual Property Rights") issued at the date of formation of the Contract arising from the sale of the Goods, against all reasonable costs and damages awarded against the Buyer in any action for such infringement, or for which the Buyer may become liable in any such action, provided that the Company shall not be liable to so indemnify the Buyer in the event that:

- (i) such infringement arises as a result of the Company having followed a design or instruction provided by the Buyer, or the Goods having been used in the manner or for a purpose or in a country not specified by or disclosed to the Company prior to the date of the Contract or in association or combination with any other equipment or software, or
- (ii) the Company has at its expense procured for the Buyer the right to continue to use the Goods or has modified or replaced the Goods so that the Goods no longer infringe

18.2 The Buyer warrants that any design or instructions furnished or given by them shall not cause the Company to infringe any Intellectual Property Rights in the performance of the Company's obligations under the Contract and shall indemnify the Company against all reasonable costs and damages which the Company may incur as a result of any breach of such warranty.

18.3 The Company shall not be liable to indemnify the Buyer under Clause 18.1 in the event that: -

- (i) the Buyer has failed to give the Company the earliest possible notice, in writing, of any claim made or to be made or of any action threatened or brought against the Buyer and/or the Buyer has failed to permit the Company, at the Company's expense, to conduct and control any litigation that may ensue and all negotiations for a settlement of the claim, or
- (ii) the Buyer has made, without the Company's prior written consent, any admission which is or maybe prejudicial to the Company in respect of any such claim or action, or
- (iii) the Goods have been modified without the Company's prior written authorisation.