

BAUWERK GROUP UK LTD'S TERMS AND CONDITIONS OF SALE

The Buyer's attention is in particular drawn to the provisions of condition 10.4.

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

"Buyer" the person, firm or company who purchases the Goods from the Company;

"Company" BAUWERK GROUP UK LTD Company Registration Number: 05014168, registered at The Courtyard, High Street, Ascot, Berkshire, SL5 7HP;

"Contract" any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these conditions;

"Delivery Point" the place where delivery of the Goods is to take place under condition 4;

"Goods" any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

"Working days" means any day between Monday and Friday inclusive but excluding bank holidays and public holidays.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

- 2.4 Each order for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions.
- 2.5 Quotations and any accompanying technical or other information supplied by us are illustrative only and are not offers from the Company capable of immediate binding acceptance. A contract shall come into existence only when the Company accepts your order.
- 2.6 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.
- 2.7 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.8 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an acknowledgement of order to the Buyer. Any quotation is valid for a period of 30 days only from its date, provided that the Company has not previously withdrawn it.

3. DESCRIPTION

- 3.1 The quantity and description of the Goods shall be as set out in the Company's quotation or acknowledgement of order.
- 3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

4. DELIVERY

- 4.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Buyer's place of business specified in the Company's acknowledgement of order. A carriage charge of £50 applies to any such delivery where the order is for less than £500 (excluding VAT).
- 4.2 The Company shall deliver the Goods to the Buyer's place of business at the Company's cost.

- 4.3 Provided that the Buyer has received the notice referred to in condition 4.2 and the requisite time has passed under that condition, then if for any reason the Buyer fails to accept delivery under that condition or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:
- 4.3.1 the Goods shall be deemed to have been delivered; and
 - 4.3.2 the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including without limitation, storage and insurance).
- 4.4 Delivery of standard orders in Great Britain mainland will be made approximately 5-7 Working Days from the date of receipt of the Buyer's order provided however that any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 4.5 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate the Contract other than pursuant to clause 5.4.
- 4.6 If the Company delivers to the Buyer a quantity of Goods of up to 3% more or less than the quantity accepted by the Company, the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such Goods at the pro rata Contract rate.
- 4.7 The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.8 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.
- 4.9 If the parties have agreed an alternative Delivery Point from the Company's place of business:
- 4.9.1 the Goods will be delivered when the Company delivers them to that agreed place;

- 4.9.2 any such delivery shall be made on a Working Day;
 - 4.9.3 the Buyer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labour for loading the Goods; and
 - 4.9.4 the Buyer shall be liable for any costs (including without limitation insurance costs) incurred in this delivery.
- 4.10 If the Buyer requests any specified time for delivery and/or any special loading requirements, these will be subject to reasonable delivery charges.
- 4.11 The Goods will be presumed to have been delivered in good and undamaged condition if on delivery of it the receiver signs the consignment note without noting damage or loss alleged on it.

5. NON-DELIVERY

- 5.1 The quantity of any consignment of Goods as recorded by the Company on despatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.
- 5.2 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.
- 5.3 In the event that the Company fails to deliver the Goods within 21 days of the Buyer's order then the Buyer shall be entitled to terminate the Contract provided such termination takes place within 60 days of the Buyer's order (whereupon the provisions of clause 5.2 shall apply).

6. RISK/TITLE

- 6.1 The Goods are at the risk of the Buyer from the time of delivery or deemed delivery.
- 6.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- 6.2.1 the Goods; and
 - 6.2.2 all other sums which are or which become due to the Company from the Buyer on any account.

- 6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:
- 6.3.1 hold the Goods on a fiduciary basis as the Company's bailee;
 - 6.3.2 store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
 - 6.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
 - 6.3.4 maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.
- 6.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
- 6.4.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
 - 6.4.2 any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.
- 6.5 The Buyer's right to possession of the Goods shall terminate immediately if:
- 6.5.1 the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
 - 6.5.2 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to

observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or

6.5.3 the Buyer encumbers or in any way charges any of the Goods.

6.6 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

6.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

6.8 Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.

6.9 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 6 shall remain in effect.

7. PRICE

7.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's price list published on the date of delivery or deemed delivery.

7.2 The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

7.3 The Company reserves the right to vary prices and specifications (quoted or otherwise).

7.4 If prices are increased, the Company shall give written notice to the Buyer before delivery and the Buyer may cancel the Contract by giving written notice to the Company of its cancellation within 14 days of receiving that notice.

8. PAYMENT

- 8.1 Subject to condition 8.4, payment of the price for the Goods is due in pounds sterling:
- 8.1.1 for Buyers with credit facilities, on or before the twentieth day of the month following the issue of the Company's invoice; and
 - 8.1.2 for Buyers without credit facilities, when the order is placed so the Company is in cleared funds before delivery.
- 8.2 Time for payment shall be of the essence.
- 8.3 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 8.4 All overdue accounts bear an administration fee of £50 on any outstanding debt and interest fee of £25.
- 8.5 The Company reserves the right to withhold deliveries in the event of non payment of any overdue monies.

9. QUALITY

- 9.1 The Company warrants that (subject to the other provisions of these conditions) on delivery the Goods shall:
- 9.1.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1979; and
 - 9.1.2 be reasonably fit as wood flooring.
- 9.2 Where the Buyer has used or installed the Goods such use or installation shall be taken as conclusive evidence that the Buyer has accepted the Goods notwithstanding that there is a defect in the quality or condition or that they fail to correspond with the specification and the Buyer waives his right to claim.
- 9.3 The Company shall not be liable for a breach of any of the Warranties in condition 9.1 unless:
- 9.3.1 the Buyer gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit to the carrier, within 7 days of

the time when the Buyer discovers or ought to have discovered the defect; and

- 9.3.2 the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Company's cost for the examination to take place there.
- 9.4 Subject to condition 9.3, if any of the Goods do not conform with any of the warranties in condition 9.1 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or the part of such Goods which is defective to the Company.
- 9.5 Any transportation costs of the Goods incurred pursuant to clause 9.3.2 or 9.4 shall be at the cost of the Company if, subject to condition 9.2 and condition 9.3, the Goods do not conform with any of the warranties in condition 9.1.
- 9.6 If the Company complies with condition 9.4 it shall have no further liability for a breach of any of the warranties in condition 9.1 in respect of such Goods.

10. LIMITATION OF LIABILITY

- 10.1 Save as provided in conditions 5.3 and 9.4, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
 - 10.1.1 any breach of these conditions;
 - 10.1.2 any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
 - 10.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3 Nothing in these conditions excludes or limits the liability of the Company:
 - 10.3.1 for death or personal injury caused by the Company's negligence; or
 - 10.3.2 under section 2(3), Consumer Protection Act 1987; or

10.3.3 for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or

10.3.4 for fraud or fraudulent misrepresentation.

10.4 Subject to condition 10.2 and condition 10.3:

10.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and

10.4.2 the Company shall not be liable to the Buyer for loss of profit, loss of business, injury, damage, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation, special loss or damage whatsoever (howsoever caused) which arise out of or in connection with the Contract.

11. RETURN OF GOODS

11.1 Notwithstanding any other provision of the Contract the Buyer shall be entitled to the return of the Goods to the Company subject to the following conditions:

11.1.1 the Buyer must obtain a returns number from the Company before returning the Goods to the Company;

11.1.2 the Goods must be returned undamaged within 14 days of purchase, in their unopened packaging;

11.1.3 the value of the Goods before any deductions must exceed £100 net of VAT;

11.1.4 all returned Goods will be subject to a 20% handling charge plus any transport cost to the Company;

11.1.5 the Goods must be returned at the Buyer's own cost, to Boen A/S' warehouse premises in Europe from where they were dispatched, (the Company may organise collection of the return with the cost of shipment being deducted from any credit given); and

11.1.6 if following inspection by the Company the Goods are found to be damaged, the Company shall notify the Buyer and unless the Goods are collected by the Buyer within 14 days of such notification, the Goods may be disposed of by the Company with no liability.

12. CREDIT ACCOUNTS

When establishing credit facilities for the Buyer, the Company reserves the right to make a search with one or more credit reference agencies relating to the Buyer and/or its directors. A record of such searches will be held by the Company and this information relating to the Buyer may be shared with other businesses (provided that any personal data shall only be disclosed in accordance with the 1998 Data Protection Act).

13. ASSIGNMENT

- 13.1 The Company may assign the Contract or any part of it to any person, firm or company.
- 13.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

14. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 60 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

15. GENERAL

- 15.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 15.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the

Contract and the remainder of such provision shall continue in full force and effect.

- 15.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 15.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 15.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 15.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

16. COMMUNICATIONS

- 16.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax:
 - 16.1.1 (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or
 - 16.1.2 (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to the Company by the Buyer.
- 16.2 Communications shall be deemed to have been received:
 - 16.2.1 if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
 - 16.2.2 if delivered by hand, on the day of delivery; or
 - 16.2.3 if sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

