

TERMS AND CONDITIONS OF SALE

1. Definitions

In these terms and conditions of sale:

"the Company" shall mean Springvale EPS Ltd. "the Buyer" shall mean the company, firm or person by whom an order is placed or with whom a contract is made, "the Goods" shall mean all or any part of the goods, materials or products supplied by the Company to the Buyer under the Contract.

2. General

- (a) These terms and conditions of sale comprise the basis on which the Company offers the Goods for sale and in any resulting contract ("the Contract") will prevail over and supersede any other terms and conditions of the Buyer.
- (b) No variation of the terms and conditions of sale shall be effected unless expressly accepted by the Company in writing.

3. Description

The description of the goods has been given by way of identification only and the use of such description shall not constitute a sale by description.

4. Samples

Notwithstanding that a sample of the goods has been exhibited to and inspected by the Buyer, it is hereby declared and agreed by both the Buyer and the Seller that such sample was so exhibited and inspected solely to enable the Buyer to form a judgement for himself as to the quality of the bulk and not so as to constitute a sale by sample.

5. Price

- (a) All prices are net, exclusive of VAT and do not include carriage/delivery charges unless otherwise agreed in writing.
- (b) The price of the Goods shall be that ruling on the date of delivery.
- (c) The Company shall be entitled to increase the price at any time prior to delivery in the event of any increase in the cost of materials, labour, production or government levies.

6. Payment

- (a) The Buyer shall pay the full amount of each invoice in respect of the Goods by the end of the month following the month of invoice unless otherwise agreed in writing.
- (b) Time for payment shall be of the essence, and the Buyer shall have no right of set-off, statutory or otherwise.
- (c) Interest shall be due and payable on all overdue amounts at the rate of 2.5% p.a. above the base-lending rate of Bank of England from the due date for payment.
- (d) The Company in its discretion may at any time require the Buyer to pay cash or provide security for payment.

7. Delivery

- (a) Delivery shall be deemed to take place when the Goods are delivered to or collected by an independent carrier or by the Buyer, whichever shall first happen.
- (b) Time of delivery is not of the essence and the Company shall not be liable for any loss or damage whatsoever suffered by the Buyer as a result of any delay in delivery or failure to deliver.
- (c) The Company reserves the right to make delivery by more than one installment, each of which shall constitute a separate contract and the Buyer shall not be entitled to refuse to accept delivery of any installment or to treat the Contract as repudiated.

8. Force Majeure

If delivery is delayed by strikes, lockouts, fire accidents, defective materials, delays in the receipt of raw materials or bought in goods or components, or any other cause beyond the reasonable control of the Seller a reasonable extension of the time for delivery shall be granted and the Buyer shall pay such reasonable extra charges as shall have been occasioned by the delay.

9. Loss or Damage in Transit

- (a) Where the Goods are lost or damaged in transit other than through the act or omission of the Buyer, the Company shall replace any items lost or damaged beyond economical repair or repair any items damaged provided that: -
 - (i) the Buyer has inspected the Goods immediately upon delivery
 - (ii) within 3 days of the receipt or collection of the Goods the Buyer has notified the Company in writing of any shortage, damage or defect.
 - (iii) the Buyer has preserved the Goods in question intact and readily available for inspection.
- (b) If the Buyer shall fail to comply with clause 9(a) the Goods shall be deemed to have been delivered in accordance with the Contract.

10. Storage and Insurance

If for any reason goods are left on our hands after the agreed delivery date, or after such goods are ready for despatch where no such delivery date has been agreed on, we shall have the right to charge storage and insurance on such goods in addition to invoicing the whole.

11. Risk and Title

- (a) Risk in the Goods shall pass to the Buyer upon delivery.
- (b) Notwithstanding the passing of risk, the title to and property in the Goods shall remain with the Company until Buyer has paid all sums due in respect thereof and all or any other sums owing to the Company in respect of other goods supplied.
- (c) Until title to the Goods passes: -

- (i) the Buyer shall hold the Goods as fiduciary agent and bailee for the Company
- (ii) the Goods shall be stored so as to be clearly identifiable as belonging to the Company
- (iii) the Buyer is licensed by the Company to sell the Goods in the ordinary course of business provided that the proceeds of any sales are held in trust for the Company and always identifiable, and provided also that the Buyer's power of sale may be revoked at any time by the Company and shall automatically cease if the Buyer becomes insolvent or enters into receivership, administration or winding up.
- (iv) the Buyer shall on demand deliver up the Goods in the Company, which is hereby irrevocably authorised to enter the Buyer's premises for that purpose.

12. Warranty

- (a) The Company warrants that it has title to and the right to sell the Goods.
- (b) No representation or warranty is given as to the satisfactory quality or fitness of the Goods for any purpose, even though that purpose may be known.
- (c) The Company upon request will assign to the Buyer the benefit of any warranty it has in respect of goods manufactured by a third party and supplied by the Company.

13. Liability

- (a) Nothing in clause 13 shall exclude or restrict the Company's liability for death or personal injury resulting from its negligence.
- (b) The Company shall not be liable for any failure to deliver or perform the Contract resulting from force majeure or any other matter or event outside the Company's control.
- (c) In the event of any defect of manufacture, materials or workmanship in the Goods during the period of 12 months from delivery the Company undertakes to either repair the Goods at its own expense or at its option to replace them provided that the Buyer: -
 - (i) notifies the Company in writing of the defect within 7 days of its discovery; and
 - (ii) returns the defective item to the Company at its own expense.
- (d) Subject to clause 13(c) the Company shall not be liable for any loss of or damage to or resulting from the supply or use of the Goods whether arising from breach of duty in contract or tort (including negligence by the Company, its servants or agents) and in no circumstances shall the Company be liable for any indirect or consequential loss or damage.
- (e) The total liability of the Company for all or any claims arising shall not exceed the price of the Goods.

14. Indemnity

The Buyer shall indemnify the Company in respect of any claim made by any third party in connection with the Goods or any use to which the goods may be put by the Buyer.

15. Health and Safety

The Company has provided the Buyer with any product and technical information available on the safe use, storage, handling and distribution of the Goods. The Buyer shall be responsible for complying with all statutes, regulations and any codes of practice applicable thereto.

16. Termination

If the Buyer: -

- (a) commits a material breach of the Contract including but not limited to failure to pay on time; or
- (b) commits any act of bankruptcy or enters into receivership, administration or winding up then in any such event the Company shall have the right to cancel or suspend any further deliveries and treat the Contract as determined, but without prejudice to the Company's right to any sums due and damages for loss suffered in consequence of such determination and without any liability to the Buyer.

17. Cancellation Charge

A cancellation charge will be levied if cancellation instructions are received after any order or part order has been partly or wholly completed by manufacturing. The charge will comprise all costs incurred up to the cancellation instruction being received in writing.

18. Returns for Credits

The Company disclaims liability for goods returned without the written consent of the Company. Any goods approved for return must be advised in writing quoting the Company's invoice number. The Company disclaims liability for any returns whilst in transit to the Company. The Company reserves the right to charge a reasonable handling and restocking charge where this is justified.

19. Intellectual Property/Approvals

The Buyer shall not, in selling its products or promoting the sale thereof, make any reference to any of the Seller's trade marks, or brand names, product approvals or other intellectual property without the Seller's written consent.

20. Assignment

The Buyer shall not assign or transfer the Contract or the benefits thereof without the prior written consent of the other party.

21. Proper Law

The Contract shall be governed by and construed in accordance with English law and any disputes arising shall be subject to the exclusive jurisdiction of the English Courts.