

Glatfelter Caerphilly Ltd. Terms and Conditions of Sale

In these conditions 'the Seller' means Glatfelter Caerphilly Limited, 'The Buyer' means the person, firm or company purchasing goods. 'Goods' means the goods or material which are to be supplied under the contract between the Seller and the Buyer.

1. CONDITIONS APPLICABLE

The following Conditions of Sale shall apply to the exclusion of all others to all sales of goods by the Seller and shall override any Buyer's conditions of purchase unless otherwise agreed in writing by an authorised representative of the Seller. No variation to these Conditions shall be binding unless agreed in writing between authorised representatives of the Buyer and the Seller. Except where inconsistent with these Conditions the British Paper & Board Trade Customs 1974 as amended from time to time shall apply.

2. ACCEPTANCE OF ORDER

No contract shall be concluded unless the Purchaser's order is accepted in writing by the Seller on its acknowledgement of order form. All quotations are subject to amendment or withdrawal and are submitted subject to these Conditions. The Seller shall not be bound to accept any order submitted as a result of any quotation.

3. DELIVERY

- The method of transport shall be at the Seller's discretion.
- Dates given for shipment or delivery are estimates only and the Seller shall not be liable for any delay in delivery of the Goods, howsoever caused. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 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 any additional delivery costs incurred by the Seller thereby shall be to the Buyer's account unless prior written notice be given of inability to accept by the Buyer.

4. FORCE MAJEURE

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 were due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Seller's reasonable control:-

- Act of God, explosion, flood, tempest, fire or accident;
- war, or threat of war, sabotage, insurrection, civil disturbance or requisition;
- acts, restrictions, regulations, bylaws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority or import or export regulations or embargoes;
- strikes, lockouts or other industrial actions or trade disputes (whether involving employees of the Seller or any other third party);
- difficulties in obtaining raw materials, labour, fuel, parts or machinery or power failure or breakdown in machinery.

5. RISK

- The risk in the Goods shall pass to the Buyer:-
- where the Goods are collected by or on behalf of the Buyer or its agents from the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
 - where the Seller has agreed to deliver or to arrange delivery of the Goods at the time when the Goods are delivered to the agreed delivery point, and any unloading or transhipment operation thereafter shall be entirely at the Buyer's risk.

6. CLAIMS: DAMAGE & NONDELIVERY

- The Buyer must notify the Seller of non-delivery of Goods within twenty-one days from the date of the Seller's invoice or in the case of short delivery within three days from the date of delivery.
- If a consignment or part consignment is received damaged, wet or in any other condition which might not be acceptable or usable the carrier's receipt must be qualified as appropriate otherwise no subsequent claim can be entertained. In respect of any such damage, complaints must be notified to the carrier and Seller in writing within three working days of delivery of the Goods.
- Except as stated in these Conditions, claims on any ground whatsoever must be made in writing to the Seller within 24 hours of commencement of processing the material and in any other case within 90 days from the date of invoice. Any claim after Goods supplied have been cut, printed or processed in any way shall be considered at the sole discretion of the Seller.
- The Seller shall not be liable for any special or consequential loss or damage (direct or indirect) or expenses in respect of the Goods or in delict or tort. The Buyer shall indemnify the Seller against claims by any third party in respect of the Goods and against all damages, fines, claims, costs or expenses whatsoever arising out of any false or misleading trade descriptions or alleged infringement of any Patent, Trade Mark, Design or Copyright arising directly or indirectly from the production by the Seller of any Goods in a manner incorporating any wording design or device specified by the Buyer.
- Under no circumstances whatsoever shall the liability of the Seller under the Contract exceed the quoted price or invoice value of the Goods concerned.

7. PRICES

- The price of the Goods shall be the Seller's quoted price or, where no price is being quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order.
- The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- Except as otherwise stated under the terms of any quotation or in any price list of the Seller and unless otherwise agreed between authorised representatives of the Buyer and the Seller all prices are given on an ex works basis. The costs of transportation or insurance shall be the sole responsibility of the Buyer. Any special packaging required by the Buyer shall be chargeable as an extra.
- The price is exclusive of any applicable Value Added Tax or other taxes or duties which the Buyer shall be additionally liable to pay to the Seller.

8. PAYMENT

- All accounts are unless otherwise agreed by the Seller in writing strictly net and payment for Goods invoiced up to and including the last day of the calendar month shall be paid to and received by the Seller within thirty days of the end of such month. Goods are normally invoiced at the date of their despatch although invoicing may be delayed after such date at the sole discretion of the Seller.
- 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:-
 - cancel the contract or suspend any further deliveries to the Buyer;
 - appropriate any payment made by the Buyer to such of the Goods (or the Goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3 per cent per annum above Midland Bank plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

9. PROPERTY & RESERVATION OF TITLE

- The property in the Goods shall remain in the Seller until the Seller has received payment in full for the goods contracted for and any other payments which may be due by the Buyer and outstanding on any account whatsoever with the Seller. If the price of the Goods is payable by instalments or only part of the price has been paid the Seller may appropriate any instalments or part payment to any part of the Goods and the property in such parts shall be transferred or passed to the Buyer.
- Until the transfer or passing of property in the Goods under paragraph (a) above the Buyer shall keep the Goods on his own premises in safe custody and identified as the Seller's property and separate from any Goods which are the property of the Buyer or any third party.
- Until such time as the property in the Goods passes to the Buyer (and provided 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's or any third party where the Goods are stored and repossess the Goods.

- The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but it 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.
- If the Goods become constituents of or mixed or manufactured or converted into other products before the property in them passes to the Buyer, the Seller and the Buyer shall be joint proprietors of such mixed or manufactured or converted goods and shall share in their value in proportion to the value of their respective contributions thereto. The Seller's rights as joint proprietor of such products shall pass to the Buyer upon payment of all monies owing to it by the Buyer.
- It is hereby declared that on any resale of the Goods or the products to which sub-paragraphs (a) or (e) applies the Buyer 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. The Buyer shall not be and shall not represent or hold itself out as being the agent of the Seller in respect of any such contract of resale and such contract shall not be binding upon the Seller.

10. WARRANTIES & LIABILITY

- SUBJECT to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects.
- The above warranty is given by the Seller subject to the following conditions:-
 - the Seller shall be under no liability in respect of any defect in the Goods arising from any design or specification supplied by the Buyer;
 - the Seller shall be under no liability in respect of any defect arising from wilful damage, negligence or misuse of the Goods or the Buyer's failure to comply with the Seller's advice, recommendations or instructions in respect of the handling, storage or use of the Goods;
 - the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment.
- Subject as expressly provided in these Conditions all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with the specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time, not exceeding 7 days after discovery of the defect or failure. If delivery is not refused and the Buyer does not notify the Seller accordingly the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the contract.
- 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 the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods and the Seller shall have no further liability to the Buyer.
- 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 or indirect loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential or indirect compensation whatsoever (and whether caused by the negligence of the Seller its employees or agents or otherwise) which may 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.

11. DEFAULT

- The Seller shall be entitled (without prejudice to such other rights as shall have accrued to the Seller) by notice in writing to the Buyer either to terminate any contract between itself and the Buyer or to suspend delivery if either:-
- Any such sum owing to the Seller by the Buyer is not paid in the ordinary course, whether under the same or any other contract; or
 - The Buyer is in breach of any term of the same or any other contract with the Seller; or
 - 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 (otherwise than for the purposes of amalgamation or reconstruction) or an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the Buyer or the Buyer ceases or threatens to cease to carry on business or the Seller reasonably apprehends that any of the aforementioned events is about to occur in relation to the Buyer and notifies the Buyer accordingly.

12. EXPORT TERMS

- Where the Goods are supplied for export from the United Kingdom the provisions of this clause 12 shall (subject to any special terms agreed in writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.
- The Buyer shall be responsible for complying with any legislation or regulations governing importation of the Goods into the country of destination and for the payment of any duties
- Unless otherwise agreed in writing between the Buyer and the Seller the Goods shall be delivered FOB the air or sea port of shipment and the Seller shall be under no obligation to give notice under Section 32 (3) of the Sale of Goods Act 1979.
- The Buyer shall be responsible for arranging for inspection of the Goods at the Seller's premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.
- Payment of all amounts due to the Seller shall be made by irrevocable letter of credit opened by the Buyer in favour of the Seller and confirmed by a bank in London acceptable to the Seller or, if the Seller has agreed in writing on or before acceptance of the Buyer's order to waive this requirement, by acceptance by the Buyer and delivery to the Seller of a bill of exchange drawn on the Buyer payable 60 days after sight to the order of the Seller at such branch of a UK Clearing Bank as may be specified in the bill of exchange.

13. ARBITRATION

Any dispute or difference which may arise between the Seller and the Buyer as to the construction, validity or performance of the contract shall be referred to an independent arbitrator to be appointed by agreement of the parties and, failing such agreement, to a person to be appointed on the application of either party as sole arbitrator by the President for the time being of the British Paper & Board Industry Federation. The decision of the arbitrator shall be final.

14. PROPER LAW

The contract shall be constructed and have effect in all respects in accordance with the Laws of England and the Seller and the Buyer shall submit to the exclusive jurisdiction of the English Courts.

15. GENERAL

- Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at his registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- No waiver by the Seller of any breach of the contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part or in part of the validity of the other provisions or these Conditions and the remainder of the provision in question shall not be affected thereby.