

TERMS AND CONDITIONS of SALE JUBB UK LTD

1 GOVERNING CONDITIONS AND DEFINITIONS

Throughout these conditions the following expressions shall have the meaning hereby respectively assigned to them, that is to say, 'The Company' means Jubb UK Ltd. 'The Purchaser' means the customer with whom the Company is contracting. 'Goods' shall mean such items, objects or goods as are contained in the Company's written acceptance of the order. These terms and conditions shall govern the Contract between the Purchaser and the Company and no other terms and conditions shall be binding on either party to the said Contract unless the same shall be expressly agreed in writing by the Company and the Purchaser.

2 PRICES

- (1) The details of goods and prices in any catalogues or leaflets issued by the Company or those who manufacture goods to be supplied do not form an offer by the Company to supply these goods at the prices stated therein or at all. The Company is not bound by such prices or responsible for any inaccuracies in such statements. Any order received by the Purchaser shall be accepted at the price prevailing at the date of and shown on the Company's invoice. Prices shown on estimates and quotations may be held firm at the Company's discretion but then only for the period of validity stated.
- (2) All prices stated are for the total quantity specified and the Company shall not be obliged to supply only a portion of any such total quantity at the rate of prices stated.
- (3) In the event that the Company accepts variations made at the request of the Purchaser to the terms and/or specifications in the Contract the Company reserves the right to make an additional charge in respect thereof.

3 DRAWINGS AND ILLUSTRATIONS

- (1) Drawings, illustrations any descriptive matter of weights and specifications submitted and the descriptions and illustrations contained in any catalogue of the Company and other advertising material are approximate and by way of identification only and are intended merely to present a general idea of the goods described and their use shall not in any circumstances form part of any contract between the Company and the Purchaser.
- (2) All designs, drawings, negatives, models, blocks and engravings supplied or submitted by the Company shall remain the property of the Company together with the Copyright therein.

4 AVAILABILITY OF STOCK AND CANCELLATION

- (1) All quotations for goods to be delivered from stock are subject to these goods being unsold on receipt of order.
- (2) No order accepted by the Company shall be cancelled under any circumstances without express written agreement by the Company and any cancellation accepted by the Company will be subject to the Purchaser forthwith paying to the Company all costs and expenses incurred by the Company of the Purchaser's cancellation.

5 ORDERS

- (1) Orders accepted by the Company may only be revised after prior written agreement by the Company.
- (2) Orders placed by telephone shall not bind the Company until confirmed in writing by the Company on its official stationery. The details of the order as shown in the Company's official confirmation shall bind the Purchaser unless the Purchaser within 24 hours of receiving the same notifies the Company that the details are incorrect.

6 QUANTITIES

The Company shall be deemed to have fulfilled its contract by delivery of a quantity within 10% either way of the quantity specified, and the Purchaser shall pay at contract rate for the actual quantity delivered.

7 DELIVERY

- (1) No liability for direct or consequential loss or damage arising from delay in delivery will be accepted by the Company.
- (2) Each delivery shall be considered a separate transaction and the failure of one delivery shall not affect the due performance of the Contract as regards other deliveries.
- (3) In the event of collection of goods from the Company premises all goods will be at the risk of the Purchaser from the time when they are collected by the Purchaser.
- (4) In the event that delivery to the Purchaser of a consignment is unreasonably delayed or refused on or within a period of five working days after the Customer's requested delivery date, the Company reserves the right to charge for storage. Charges will apply after a period of five working days of attempted delivery or booking in. Prevailing storage charges are based on commercial rates and are available on request.

8 PAYMENT

- (1) Payments for goods shall be made by the Purchaser within the time stated on the invoices notwithstanding the existence of any dispute between the Company and the Purchaser in relation to this or any other agreement.
- (2) Time for payment of the Purchase price shall be of the essence, if for any reason payment is not made on the date or dates specified the company shall be entitled without prejudice to any other rights that it has to take any of or all of the following actions.
 - (a) Determine the Contract
 - (b) Postpone the fulfilment of its own obligations under the Contract or any other contracts then in existence between the Purchaser and the Company until such overdue payment is made.
 - (c) During such time that the sum due remains unpaid to charge interest on the sum or sums throughout the period of default at 4% over UK clearing bank base lending rate.
 - (i) The payment of such interest aforesaid shall not affect the rights of the Company to recover any such sums immediately they become due.
 - (ii) If it is agreed that the delivery shall be in instalments each delivery shall be deemed an individual contract and clause 8 and 11 hereof shall have effect in full with regard to each such delivery.
 - (iii) If any sum remains unpaid after the due date stated above then payment for all goods and services supplied by the Company to the Purchaser (no matter how recently) shall become due immediately.

9 RETURNS, NO ACCEPTANCE, DEFECTS AND SHORTAGES

- (1) Goods will not be supplied on approval
- (2) If the Company is satisfied as a result of the complaints made by the Purchaser that there is a short delivery and/or such defects in the goods were occasioned by the negligence of the Company, the Company will make good the shortage and/or deliver replacements or at its option credit the Purchaser in full in respect thereof or repair the goods.
- (3) Goods delivered by the Company in accordance with the Purchaser's orders but found to be unsuitable may not be returned to the Company without express confirmation in writing. The Company reserves the right to levy a handling charge or pass any such charge instituted by the manufacturers.
- (4) Goods may only be returned after written agreement provided that the number and date of the appropriate invoice is specified at the time of request and that they are in the same condition as supplied, uncontaminated, undamaged and fully packed.
- (5) Request to the Company to return goods must be made in writing by the Purchaser within 21 days of the date of the invoice covering supply of such goods.

10 LIABILITIES

- (1) Save as provided herein and subject to the Sale of Goods Act 1979 the Supply of Goods and Services Act 1982 and the Unfair Contract Terms Act 1977 the Company shall be under no liability whatsoever arising and whether in contract or tort or otherwise in respect of any defects in goods sold or defective work including consequential loss.

- (2) The Company accepts no liability for damage to closure or container caused by contents of container, nor is the Company liable for damage or loss of container caused by the material from which the closure or container is made. The Purchaser is expected to test forwarded samples and make sure that the material is in possession of the required chemical and physical qualities.

11 TITLE TO GOODS

- (1) The risk in the goods shall pass from the seller to the buyer upon delivery of such goods to the buyer. However, notwithstanding delivery and the passing of risk in the goods, title and property in the goods, including full legal and beneficial ownership, shall not pass to the buyer until the seller has received in cash or cleared funds payment in full for all goods delivered to the buyer under this and all other contracts between the seller and the buyer for which payment of the full price of the goods thereunder has not been paid. Payment of the full price of the goods shall include the amount of any interest or other sum payable under the terms of this and all other contracts between the seller and the buyer under which the goods were delivered.
- (2) The Company and the Purchaser expressly agree that until the Company has been paid in full for the goods supplied, the goods remain the property of the Company although the risk therein passes to the Purchaser at the point when delivery is made, or goods are collected.
- (3) The Company may recover those goods at any time from the Purchaser if the Company judges the amount outstanding from the Purchaser on the general statement of account between the parties is in excess of the credit limit the Company is willing to accord to the Purchaser and for that purpose the Company's servants and agents may enter upon any land or building upon which the goods are situated.
- (4) If the Purchaser incorporates such goods into other products, with the addition of his goods or those of others or uses such goods as materials for other products with or without such addition, the property in those other products is upon such incorporation or use ipso facto transferred to the Company. The Purchaser as bailee of them for the Company will store the same for the Company in a proper manner without charge to the Company.
- (5) The Purchaser has the right to dispose of the goods or other products in the course of his business for the account of the Company and to pass good title to the goods or products to his customer being a bona fide buyer for value without notice of the Company's right.
- (6) In the event of such disposal the Purchaser has the fiduciary duty to the Company to account to the Company for the proceeds but may retain therefrom an excess of such proceeds over the amount outstanding and due to the Company. The Company has the additional right to recover from the Purchaser's customer to the extent unpaid; if the Company avails itself of this right, it will account to the Purchaser for any excess less any expenses incurred by effecting recovery.

12 CREDIT

Any contract shall be subject to the Company being satisfied as to the Purchaser's credit worthiness and without prejudice to the generality of the foregoing. The Company may, in its absolute discretion, having informed the Purchaser the goods are ready for delivery, refrain from delivering the goods until such time as the Purchaser tenders the purchase money to the Company in a form satisfactory to the Company.

13 VALUE ADDED TAX

Where chargeable, Value Added tax will be charged at the rate applicable at the date of despatch.

14 FORCE MAJEURE

The Company shall be relieved of liabilities incurred under the contract wherever and to the extent to which the fulfilment of such obligation is prevented, frustrated or impeded as a consequence of any of the following events:

- (i) War, Invasion, act of foreign enemy, hostilities (whether war has been declared or not), Civil war, Revolution, Insurrection, Military or usurped powers or Acts of God.
- (ii) Statutes, Rules, Regulations, Orders or Requisitions issued by any Government, Department, Council or other duly constituted body.
- (iii) Strikes, Lockouts, Breakdowns of plant.
- (iv) Other causes (whether or not of like nature) beyond the Company's control.

15 SOLVENCY

Without prejudice to any of the rights herein contained:

- (1) Where the Purchaser is an individual and shall at any time become bankrupt or shall have a receiving order or administration made against him or shall make a composition or arrangement with or for the benefit of his creditors or shall make any conveyance or assignment for the benefit of his creditors or shall propose to do so if application shall be made under the Insolvency Act 1986 or any amendment thereof for the time being in force for sequestration of his estate or for trust shall be granted by him on behalf of his creditors or if the Purchaser being a Company shall by a resolution of the Court shall make an order that the Company shall be wound up (not being a members winding up for the purposes of reconstruction or amalgamation) or if a Receiver or manager on behalf of the creditors shall be appointed or a circumstance shall arise which entitles the court or a creditor to appoint a Receiver or manager or which entitles the Court to make a winding up order then the Company shall be at liberty:
 - (a) To cancel a contract summarily by notice in writing without compensation to the Purchaser or
 - (b) To give any such Receiver or liquidator or person the option of carrying out the contract.

- (2) Where the Purchaser is a firm (which expression shall include a limited liability partnership under the Limited Liability Partnerships Act 2000 as well as a partnership under the Partnership Act 1890 and a limited partnership under the Limited Partnerships Act 1907) clause (1) above shall apply as if for the reference to "the Purchaser" there were substituted a reference to "any partner in the firm"

16 JURISDICTION

The Contract shall be subject to and construed in accordance with English Law. The Company may only be sued in the Courts of England and Wales.

- (a) All the provisions of these conditions are made Without Prejudice to any further claim the Company may have against the Purchaser in respect of any contract of which these conditions form part and each clause and sub clause and these conditions shall be separate distinct and several from each other and each others sub clauses contained herein.
- (b) Throughout these conditions the words "Contract" and "Agreement" may be used. Both words are used to describe and refer to any contract from time to time between the Company and the Purchaser.

17. Headings and marginal notations (if any) contained in these conditions shall not affect the interpretation of any of the clauses and are merely inserted for guidance only.

18. Where appropriate throughout these conditions the singular shall include the plural and the masculine the feminine and/or the neuter or vice versa.

19. These Terms and Conditions shall apply to the Contract notwithstanding any provision in the Purchaser's terms and conditions to the contrary and the Company only enters into the contract on this basis.

The Purchaser hereby formally accepts the terms and conditions herein contained.