

Adheseal Pty Ltd

Terms & Conditions of Sale effective 1/3/2004

These conditions means the conditions set out below and, in the sale of any particular goods, the conditions accompanying any quote given in request of those goods.

In the even of an inconsistency between the conditions accompanying a quote and the conditions below the conditions accompanying the quote shall prevail.

1. BUYERS STATUTORY RIGHTS

These conditions shall not exclude, limit, restrict or modify the rights, entitlements and any remedies conferred upon the Buyer or the liabilities imposed upon the Seller, by any condition or warranty implied by any applicable legislation rendering void or prohibiting such exclusion, limitation, restriction or modification. To the full extent permitted by law all terms, conditions and warranties not expressly set out below are excluded.

2. ACCEPTANCE

All goods are sold subject to these Conditions. No terms or conditions at variance with these Conditions nor any qualification or restriction of these conditions (whether set out in the Buyer's purchase order document) will be applicable or binding upon the Seller or of any force or effect UNLESS expressly noted and agreed by the Seller in writing.

3. ORDERS

- (a) Orders for goods which are non-stock items shall not be nor deemed to be binding unless and until confirmed by the Seller in writing
- (b) (i) Alterations to the size or physical properties of goods will not be accepted for orders which are completed or in production

(ii) If the Buyer cancels all or part of an order prior to commencement of production of the goods it shall pay to the Seller as liquidated damages reflecting costs incurred by the Seller an amount equal to 5% of the price of the cancelled goods. If the Buyer cancels all or part of the order after the commencement of production it shall pay to the Seller as liquidated damages reflecting costs incurred by the Seller the full price of the goods cancelled less the current scrap value thereof.

(iii) The Seller may in its absolute discretion accept goods returned for credit. Any goods returned for credit are subject to 15% handling and restocking charge which the Seller may deduct from the credit note.

4. WARRANTIES

Subject to Condition 1:

- (a) The Seller warrants that the goods supplied shall be of merchantable quality. All goods are supplied subject to this warranty only and any liability arising out of or in respect of the supply, re-supply, use or reuse whether singly or otherwise of the goods, howsoever arising including without limitation any liability arising from any negligent act or omission and whether for consequential loss or otherwise, and including any liability the Seller may otherwise have had by virtue of any representation, warranty, condition or term, whether express or implied by law is hereby excluded.
- (b) Any liability incurred by the Seller to the Buyer is limited to the replacement of the goods (at the option of the Seller) refund of the price paid by the Buyer and in particular does not extend to consequential loss and is conditional upon the Buyer within 21 days of delivery making a written claim to the Seller setting out full particulars of such claim and where possible returning to it sufficient part of goods to enable a proper examination.
- (c) The Buyer shall not make any representation or give any warranty in relation to the goods except as contained in literature published by the Seller or such other as is expressly approved by the Seller in writing. The Seller shall not be liable for any representation or warranty given by the Buyer which has not been authorised by the Seller and the Buyer agrees to indemnify the Seller and keep it indemnified against any loss, claim or expense suffered by it arising from any breach or alleged breach thereof.

5. ADVICE

Subject to condition 1, any advice, recommendation, information, assistance or service provided by the Seller in relation to goods or their use on application is given in good faith and is believed by the Seller to be appropriate and reliable. However, any advice, recommendation, information, assistance or service provided by the Seller in relation to goods is provided without liability or responsibility on the part of the Seller.

6. DELIVERY

- (a) The Seller will make all reasonable efforts to have the goods delivered on the agreed Delivery Date, but the Seller shall be under no liability whatsoever should delivery not be made on this date.
- (b) Where the goods are to be delivered by partial shipments each partial shipment shall be deemed to be sold under a separate contract. Any failure on the part of the Seller to deliver within the time stated shall not entitle the Buyer to repudiate the contract with regard to the balance remaining undelivered.
- (c) If the Buyer requests and the Seller agrees to a deferment of delivery of the goods the date from which the delivery is deferred shall be deemed to be the date on which delivery was made. From that date until the actual delivery the buyer shall pay a warehousing fee as nominated by the Seller.
- (d) Deliveries may be subject to a charge within the metropolitan area. Goods despatched outside Adheseal's delivery area are ex works and the transport is the responsibility of the purchaser.

7. TITLE

- (a) Title of each unit of the goods purchased passes to the Buyer when full payment has been received (each unit being considered as a whole) by the seller, or upon the sale by the Buyer of the goods or upon the mixing of the goods with any other goods, whichever occurs first.
- (b) Until title to the goods passes to the Buyer the Buyer shall be a bailee only of the goods and shall unless otherwise agreed by the Seller separately store the goods so they are clearly identified as the property of the Seller. The Seller shall if payment is not made according to these Conditions be entitled to enter any premises occupied by the Buyer where goods are situated and retake possession of the goods.
- (c) Any sale of the goods by the Buyer to a third party before the purchase price has been paid to the Buyer shall be deemed to be absolute assignment of the proceeds of such sale from the Buyer to the seller, and the buyer shall account to the Seller in specie for all proceeds received by the Buyer and the Buyer will concur in directing any third party to pay the proceeds Seller and the proceeds will be deemed to be held in trust for the Seller until paid to the Seller.
- (d) Notwithstanding any of these Conditions, the risk in the goods passes to the Buyer upon delivery of the goods to the premises to which they have been consigned by the Seller or to any carrier acting on behalf of the Buyer.

8. PRICE

The price(s) quoted are net and no further deductions or discounts apply. The price charged shall be the price ruling at delivery unless otherwise agreed in writing. Price indications or price lists are subject to alteration to price ruling at the Delivery Date.

9. GST

The price does not included GST. If applicable to any goods, GST will be included in the invoice(s) and will be payable by the Buyer in accordance with these Condition.

10. VARIATION

If the Seller incurs additional costs or expenses by reason of the instructions or information given by the Buyer being incorrect or due to the lack or insufficiency of instructions or due to any variations or amendments to the specifications or the Buyer's requirements for the goods being produced by the Seller, then such additional costs will be added to the price and will be paid by the Buyer in accordance with these Conditions.

11. TERMS

Invoice(s) will be sent throughout the month and full payment is required at the end of the month following the month of issue of the invoice (unless expressly agreed otherwise by the Seller in writing). Interest at current bank overdraft rate may be charged on all overdue invoices. Payment in full in accordance with these Conditions is a condition precedent to further production and deliveries of goods after the due date for payment and shall be of the essence of this contract. Should the Purchaser default on payment, all costs incurred by the Seller in retrieving the monies are to be borne by the purchaser.

12. FORCE MAJEURE

Deliveries may be suspended by the Seller during any period in which the seller may be prevented or hindered from delivering by the Seller's normal means of supply or delivering by the normal route through any circumstances outside its reasonable control. The Seller shall not be liable in respect of such suspension, and in particular the Seller shall not be obliged to produce or deliver at any future date any goods not delivered during the period of suspension.

13. DEFAULT

If the Buyer makes default in any payments or commits any act of bankruptcy or, being a company, enters into liquidation or provisional liquidation whether compulsory or voluntary other than for the purpose of amalgamation or reconstruction or compounds with its creditors generally or has a receiver and manager appointed over all or part of its assets suffer any similar action in consequence of debt or becomes unable to pay its debts as they fall due, or passes a resolution for winding-up, the Seller may without prejudice to its own rights either suspend further deliveries, require payments in advance for all such deliveries or terminate any contract forthwith by written notice to the Buyer.

14. CONTAINERS

Containers in which goods are delivered and for which a deposit charge is made remain the property of the Seller and must not be used for any other commodity than that contained therein at the time of delivery. On their return in good order and condition by the Buyer (and at the Buyer's expense) to the factory or store of the Seller from which the goods were delivered, the full amount of the deposit will be repaid to the Buyer. Containers will be deemed to be in the Buyer's hands until received at such factory or store.

15. PALLETS

The Seller retains right of possession of any pallets used for delivery of the goods and the Buyer agrees to return the pallets to the Seller and indemnify or compensate the Seller for the cost of the pallets (as determined by the Seller) within 28 days of delivery of the goods.

16. WEIGHT

In the absence of a proven defect in the Seller's system of weighing or measuring, the weight or measurement of goods sold hereunder shall be the last weight or measurement determined by the Seller's system of weighing or measuring prior to delivery