



Certificate No. FM 13894
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EUROPEAN SPRINGS & PRESSINGS LTD

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TERMS AND CONDITIONS OF SALE OF EUROPEAN SPRINGS & PRESSINGS LIMITED ("the Company")

1. GENERAL

- (a) These Conditions shall apply to all goods and services supplied by the Company and supersede any previous terms and conditions of the Company. Any provisions stipulations or conditions made by or contained in any document issued by any customer of the Company ("the Customer") are hereby excluded.
- (b) The obligations of the Company hereunder are subject to all necessary governmental and other consents and permits, including without limitation applicable export licences, having been issued to the Company.
- (c) These Conditions are governed by the Incoterms 1990 (as revised from time to time). In the event of any inconsistency between these Conditions and the said Incoterms, these Conditions shall prevail.

2. QUOTATIONS

- (a) All quotations shall be given by the Company without obligation and shall be exclusive of VAT. The Company reserves the right to alter or withdraw a quotation without notice at any time prior to acceptance of an order.
- (b) Unless previously withdrawn, every quotation is open for acceptance within 30 days only from its date subject to Condition 3(a) below and any revision in price referred to in Condition 3(d) and, if required by the Company, is subject to approval of the Customer's credit.

3. ORDERS AND PRICES

- (a) No contract shall arise between the Company and the Customer until an order by the Customer has been accepted by the Company.
- (b) Orders may be placed in writing, by telephone and/or facsimile subject to the Customer giving an order reference and any facsimile order being in a legible form. These Conditions shall apply to all orders so placed and copies of these Conditions are available on request.
- (c) The Company reserves the right to require that orders be signed by or (if made by telephone) confirmed in writing by an authorised signatory of the Customer, giving his name, position and evidence of such authority.
- (d) Unless otherwise agreed in writing all quotations are given and all orders are accepted at the Company's prices ruling at the date of quotation and/or order as the case may be. The Company reserves the right to amend prices on or at any time after acceptance of any order and to correct errors or omissions. Prices will be amended to reflect, inter alia, increased costs to the Company of VAT (or any other applicable sales tax), goods and labour.
- (e) Prices quoted for all sales are ex-warehouse prices. Cartage, freight, transit, insurance, packaging and other charges (where applicable) are additional charges for the Customer's account except where otherwise stated. All fees, expenses or costs are exclusive of VAT (or other applicable sales tax imposts or levies imposed in any part of the world) which shall be added to the price and be payable by the Customer.
- (f) The terms granted in respect of any order are not applicable to any subsequent order without the express written consent of the Company.

4. DELIVERY

- (a) In respect of export sales, the Customer shall take delivery of the goods as soon as they are placed at his disposal at the agreed time and place.
- (b) Periods quoted for delivery of goods or for the performance of work commence from the date of acceptance of the Customer's order (with pre-payment if required), the receipt of all information and data and the grant of all necessary export, import or other permits or licences.
- (c) All delivery dates quoted by the Company are estimated only and do not form a term of the contract with the Customer. Whilst the Company will endeavour to adhere to quoted delivery times no liability shall be incurred by the Company by reason of any delay nor shall the order be voidable for that reason.
- (d) In respect of export sales, if any goods placed at the Customer's disposal in accordance with condition 4(a) are not thereupon accepted by the Customer they will (without prejudice to any other consequences) be stored at the Customer's risk and expense at a reasonable charge but, for the purpose of determining the due date of payment of the goods, shall be considered to have been delivered when first tendered.
- (e) Where, under the terms of an order, the Customer is entitled to take delivery of goods during a period of 12 months from the order date and the Customer fails to call off all such goods during such period, the Company reserves the right to deliver, and the Customer shall take delivery of, the balance of goods outstanding under the terms of that order. At the time of delivery or deemed delivery by the Company of such outstanding goods the total price payable in respect of such order shall (without prejudice to any other right or remedy of the Company) immediately become due and payable to the Company.
- (f) Where the Company has agreed to arrange for the transport of goods, then unless a specific method and manner of transport of goods in relation to a particular order has been agreed in writing between the Company and the Customer, goods shall be transported by such method as the Company shall select.

5. PAYMENT

- (a) Subject to any express terms set out in an order, payment shall be made in full in sterling without set-off, counter-claim or other deduction and within 30 days from the date of invoice. Time shall be of the essence of the contract in respect of payment of all sums due to the Company under these Conditions.
- (b) All liabilities of the Company are subject to the terms of payment and observance by the Customer of all his obligations under the contract.
- (c) The Company reserves the right to change the Customer interest (after as well as before judgement) on any overdue account at the rate of 3% per annum above its bankers' base rate from time to time.
- (d) If a Customer fails to pay any sums due at the time or times and in the manner stipulated, the Company shall be entitled to a general lien on all the Customer's goods in its possession (notwithstanding that such goods or some of them may have been paid for) for the unpaid price or any part thereof of any goods sold and delivered to the Customer by the Company under this or any other contract and the Company shall be entitled to sell or otherwise dispose of such goods in such manner as it thinks fit, in addition and without prejudice to its right to recover damages for any loss sustained by it, while any account of a Customer is overdue, the Company reserves the right to cancel and/or suspend performance of the Company's obligations to the Customer under any contract until payment of any overdue accounts including interest thereon has been received by the Company in cleared funds in respect of that or any previous order.

6. INSPECTION OF GOODS

Inspection of goods if required is to be at the Company's warehouse and shall not create a sale by sample.

7. REPRESENTATIONS

Illustrations and specifications set out in the price lists and other sales literature of the Company are statements of opinion and are provided for information only and form no part of the contract.

8. CUSTOMERS SPECIFICATIONS

- (a) Orders for goods to a Customer's pattern or specification are accepted on the understanding that the Company has the right to supply up to 10% more or less than the quantity ordered. Any shortage or excess will be charged for or deducted pro rata.
- (b) If the goods are to be manufactured or any process is to be applied to the goods by the Company in accordance with a specification or a pattern submitted by the Customer, the Customer shall indemnify the Company against all loss (including consequential loss), damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim or infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from the Company's use of the Customer's specification or pattern.

9. WARRANTIES AND LIMITATION OF LIABILITY

- (a) The Company warrants that subject to compliance with Condition 12 it will make good by repair or supply of a replacement any defects in goods manufactured by it and sold to the Customer hereunder provided always that such defects are in the Company's reasonable opinion, due solely to its faulty workmanship.
- (b) Without prejudice to Conditions 9(a) (d) (e) and (f) hereof, the Company shall at its own option and to the extent that it is able assign to the Customer its entitlement to benefit under any guarantee or warranty on material or services supplied to the Company where such guarantee or warranty relates to components of the goods sold by the Company to the Customer provided that there has been no misuse or improper installation of the goods.

(c) Without prejudice to Conditions 9(c) (d) (e) and (f) hereof and subject as herein provided, the aggregate liability (if any) of the Company in respect of any claim brought against it by the Customer shall in all circumstances be limited to the net invoice price payable under the relevant contract.

(d) Subject to Conditions 9(a) and (b) and save where the goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all other warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

(e) Where the goods are sold under a consumer transaction the statutory rights of the Customer are not affected by these Conditions.

(f) Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer 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, or for any loss, consequential loss or damage (whether there is a loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by negligence of the Company, its employees, sub-contractors or agents or otherwise) which arise out of or in connection with the supply of goods and/or services to and/or their use or resale by the Customer except as expressly provided in these Conditions.

(g) Except where the contract is an international supply contract having the characteristics specified in Section 26 of the Unfair Contract Terms Act 1977, nothing contained in the contract shall exclude or restrict:-

(i) any liability of the Company for breach of its implied undertaking as to title, and

(ii) where the Customer deals as consumer within the meaning of the Unfair Contract Terms Act 1977, any liability of the Company for breach of its implied undertakings as to conformity of the goods with description or sample or as to their quality or fitness for a particular purpose.

10. RISK AND TITLE

(a) The property in goods supplied by the Company shall not pass to the Customer until the Company has received in cash or cleared funds payment of all monies due from the Customer to the Company for all goods and services supplied under all orders.

(b) Until such time as the property passes to the Customer all goods supplied by the Company to the Customer shall be stored separately (without charge to the Company) and marked so as to be readily identifiable as being the property of the Company and shall be insured by the Customer to the value of at least the full purchase price under the contract.

(c) Until such time as the property in any goods supplied by the Company passes to the Customer in accordance with Condition 10(a) above, and provided the goods are still in existence and have not been resold by the Customer, the Company shall be entitled without prejudice to any other rights or remedies it may have at any time to repossess the goods. For the purpose of such repossession the Customer grants an irrevocable right and licence to the Company through its servants or agents with or without vehicles to enter at any reasonable hour upon all or any of the Customer's premises or any other premises where the goods are stored. This right shall continue to subsist notwithstanding the termination of any contract with the Customer and is without prejudice to any other right or remedy available to the Company. The Company reserves the right to charge the Customer for any reasonable costs incurred in such repossession.

(d) The Customer shall not pledge or in any way charge by way of security any of the goods which remain the property of the Company, but if the Customer does so pledge or charge the goods, all monies then owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) immediately become due and payable.

(e) Notwithstanding the foregoing, risk in respect of the goods shall pass to the Customer at the point when such goods leave the Company's warehouse for delivery to the Customer.

11. TERMINATION

(a) The Company shall be entitled to terminate the contract without notice and with immediate effect, but without discharging any pre-existing liability of the Customer to the Company, and without prejudice to any other right or remedy of the Company in respect of the breach concerned or any other matter arising under these Conditions. In any of the following circumstances:-

(i) if the Customer not being a body corporate becomes bankrupt, compounds or makes any arrangement with his creditors or commits an act of bankruptcy or the like under the laws of any jurisdiction;

(ii) if the Customer being a body corporate makes any composition or arrangement with its creditors, has a Receiver, Administrative Receiver or Administrator (or the like under the laws of any jurisdiction) appointed in respect of its assets or undertaking or any part thereof, or enters into liquidation or is insolvent, within the meaning of the Insolvency Act 1986 or any analogous legislation in any jurisdiction; or

(iii) if the Customer commits any material or persistent breach of any of its obligations under the contract or these Conditions.

(b) Upon termination of any contract at any time pursuant to Condition 11 (a) and without prejudice to any other rights arising, the Company shall be entitled to demand immediate payment of all accounts due or accrued to the Company thereunder together with any interest and to retain for its benefit any advance payment, part payment and/or deposit already paid.

12. RETURN OF GOODS

(a) No goods may be returned, unless either -

(i) a valid claim is involved in the circumstances specified in Conditions 9(a) or (b); or

(ii) at the Company's sole discretion.

(b) It shall be a condition of any such return that the goods shall be returned within 14 days of the date of delivery or deemed delivery with the supplying invoice to the Company's premises, for credit and in a good condition, and that the same may be subject to a restocking and administration charge.

13. CANCELLATIONS

(a) Cancellations of orders for goods shall only be accepted by the Company if made in writing by the Customer and received by the Company prior to it having manufactured the goods or having incurred any obligation to its suppliers.

(b) Without prejudice to any other remedies it may have the Company shall be entitled to claim for all reasonable administrative and other costs incurred by the Company on the Customer's behalf in connection with such cancelled order and any other loss (whether direct or indirect) caused by reason of cancellation.

(c) In the event of cancellation of the uncompleted balance of an order by the Customer, the Company reserves the right to charge for those goods already supplied on the order at the price applicable to the quantities supplied.

(d) The Customer shall be liable to the Company for any loss caused by reason of cancellation.

14. FORCE MAJEURE

If any of the Company's obligations shall be prevented, hindered or interfered with by war, strikes, accidents or force majeure or by any cause whatsoever and howsoever beyond its control, the Company shall have the option to suspend or cancel any obligation then unperformed and shall not be responsible for any loss or damage arising directly or indirectly therefrom.

15. WAIVER

No relaxation, forbearance, delay or indulgence by the Company in enforcing any of the terms and conditions of the contract shall prejudice or restrict its rights thereunder nor shall any waiver by it of any breach thereof operate as a waiver of any continuing or subsequent breach.

16. MISCELLANEOUS

(a) The headings used in these Conditions are for convenience only and shall not affect their meaning or construction.

(b) These Conditions shall not be varied or waived except in writing and by the hand of a director of the Company.

(c) In these Conditions reference to any gender shall include all other genders and to the singular shall include the plural and vice versa.

(d) The invalidity of any individual provision of these Conditions shall not affect the validity of the remaining provisions.

17. NOTICES

(a) Any notice required or desired to be served pursuant to these Conditions shall be delivered by hand or sent by first class post (airmail if sent to or from abroad) (i) in the case of notices to the Company at its registered office (ii) in the case of the Customer at the address from which the goods were ordered or if the Customer is a Company at its registered office or (iii) in the case of either party at such other address as it shall notify to the other in writing.

(b) Any notice sent by post aforesaid shall be deemed to arrive in the case of inland mail 48 hours after posting, in the case of overseas mail 5 days after posting for Europe and 7 days elsewhere.

18. JURISDICTION

These Conditions and any contract between the Company and the Customer shall be subject to the non-exclusive jurisdiction of the English Courts and in all respects be construed and operate as an English contract and in conformity with English law.