

NEVILLE & MORE

A TRICORBRAUN COMPANY®

NEVILLE AND MORE LIMITED

CONDITIONS OF SALE

INTERPRETATION

In these Conditions:-

'Buyer' means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller

'Goods' means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions

'Seller' means Neville & More Limited

'Conditions' means the standard terms and conditions of sale set out in this document and any special terms and conditions agreed in writing between the Buyer and the Seller

'Contract' means the contract for the purchase and sale of the Goods

'Writing' includes telex, cable, facsimile transmission and comparable means of communication.

Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

The headings in these Conditions are for convenience only and shall not affect their interpretation.

BASIS OF THE SALE

The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions.

No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representation which are not so confirmed.

Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

ORDERS AND SPECIFICATIONS

No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative, or unless the order is confirmed by delivery of the Goods

DELIVERY

Delivery of the Goods shall be made by the Seller to the Buyer's address on the date notified to the Buyer on the order confirmation or subsequently by the Seller and the Buyer shall make all arrangements necessary to take delivery of the Goods wherever they are tendered for delivery.

Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

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 (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

- store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
- sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the Buyer for any shortfall below the price under the Contract.

RISK AND PROPERTY

Risk of damage to or loss of the Goods shall pass to the Buyer on delivery of the Goods.

Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

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 Buyer shall upon request deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

The Buyer shall not 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 if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation subject to any amendments specified on the Seller's order form. The Buyer shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be greater or less than the quantity purchased PROVIDED THAT:-

- such discrepancy in quantity shall not exceed 15%;
- the price shall be adjusted pro rata to the discrepancy.

No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

PRICE OF THE GOODS

The price of the Goods shall be the Seller's quoted price or, where no price has been 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. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

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 alteration of duties, significant increase in the cost 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 in Writing between the Buyer and the Seller, all prices are given by the Seller inclusive of the cost of packaging, insurance and delivery.

The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods.

TERMS OF PAYMENT

Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.

The Buyer shall pay the price of the Goods within 30 days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract.

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; and

charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 4 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).

WARRANTIES AND LIABILITY

Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery PROVIDED THAT the Seller shall be under no liability in respect of any defect arising from fair wear and tear, damage from an external source, negligence, abnormal working conditions frost and severe weather conditions, failure to follow the Seller's instructions (within oral or in writing), misuse or alteration of the Goods without the Seller's approval. No other warranty is given in respect of the Goods.

Except where the Buyer is dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms whether implied by statute or common law or made expressly by the Seller or its servants or agents 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 specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 24 hours of delivery (if such defect is apparent upon delivery) or otherwise within 7 days from the date of delivery. 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 have 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 specifications is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to replace the Goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), but 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 loss or damage (whether for loss of profit or otherwise) costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller, its employees or agents or otherwise) which 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.

INSOLVENCY OF BUYER

This clause applies if:-

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, of 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 events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

If this clause applies 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 under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

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 its 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 the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

The Contract shall be governed by the laws of England.