

1) General

- A. In these Terms and Conditions ‘the Company’ means Smeg (UK) Limited; ‘the Customer’ means any company, firm, or individual with whom the Company concludes a contract to sell Goods; ‘Goods’ means any products sold by the Company to the Customer including in particular the goods (including any instalment of the goods or any parts for them) specified in the contract or order form to which these Conditions are annexed; ‘Current Price List’ means the price list issued by the Company and current at the date of acceptance by the Company of the relative contract or order; ‘Contract’ means the contract for the purchase and sale of the Goods; ‘Writing’ includes telex, cable, facsimile transmission, e-mail and other electronic means of communication and all comparable means of communication.
- B. Any reference in these Conditions to any provision of any statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- C. The heading in these Conditions are for convenience only and shall not affect their interpretation.

2) Basis of the Sale

- A. The Company shall sell and the Customer shall purchase the Goods in accordance with any written order of the Customer which is accepted by the Company, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted or any such order is made or purported to be made by the Customer.
- B. 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 Company shall be subject to correction without liability on the part of the Company.
- C. The Company’s employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in writing. In entering into any contract for the supply of Goods by the Company, the Customer acknowledges that it does not rely on and waives any claim for breach of any such representations, which are not so confirmed.
- D. These terms govern all sales of Goods from the Company to the Customer.

3) Orders and Specifications

- A. The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.
- B. The quantity, quality and description of and any specification for the Goods shall be those set out in the Company’s quotation or the Customer’s order.
- C. 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 submitted by the Customer, the Customer shall indemnify the Company against all 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 for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Company’s use of the Customer’s specification.

D. The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Company's specification, which do not materially affect their quality or performance.

4) Price of the Goods

- A. The price of the Goods shall be the Company's quote price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Company'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 Customer, after which time they may be altered by the Company without giving notice to the Customer.
- B. The Company reserves the right by giving notice to the Customer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties or taxes, 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 Customer or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions.
- C. Except as otherwise stated under the terms of any quotation or in any price list of the Company and unless otherwise agreed in writing between the Customer and the Company all prices are given by the Company on an ex works basis, and where the Company agrees to deliver the Goods otherwise than at the Company's premises, the Customer shall be liable to pay the Company's charges for transport, packaging and insurance.
- D. The price is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to the Company.
- E. The cost of pallets and returnable containers will be charged to the Customer in addition to the price of the Goods, but full credit will be given to the Customer provided they are returned undamaged to the Company before the due payment date.

5) Terms of Payment

- A. Subject to any special terms agreed in Writing between the Customer and the Company the Company shall be entitled to invoice the Customer 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 Customer or the Customer wrongfully fails to take delivery of the Goods, in which event the Company shall be entitled to invoice the Customer for the price at any time after the Company has notified the Customer that the Goods are ready for collection or (as the case may be) the Company has tendered delivery of the Goods.
- B. The Customer shall pay the price of the Goods (less any discounts to which the Customer is entitled, but without any other deduction) within 30 days of the date of the Company's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- C. If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company the Company shall be entitled to:
- i) cancel the contract or suspend any further deliveries to the Customer

- ii) treat such contract(s) as repudiated and in addition all sums howsoever and whensoever owed to the Company by the Customer shall become immediately due and payable to the Company
- iii) appropriate any payment made by the Customer to such of the Goods (or the goods supplied under any other contract between the Customer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Customer) and
- iv) charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 2% per annum above National Westminster Bank base rate from time o time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6) Delivery

- A. Delivery of the Goods shall be made by the Customer collecting the Goods at the Company's premises at any time after the Company has notified the Customer that the Goods are ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering the Goods to that place.
- B. Goods will be deemed to be delivered to a Customer when delivered to a person appearing to have authority to sign for them at the Company's premises or other destination to which they are consigned. Risk in and responsibility for the goods shall vest in the Customer from the time of delivery. Customers are advised to arrange their insurance coverage accordingly.
- C. Any despatch dates quoted to a Customer are estimates only and no liability can be accepted (whether for consequential loss or otherwise) for failure for any reason to meet the same. Goods will be despatched within a reasonable period from the acceptance by the Company of the Customer's order.
- D. The Company will not be under any liability (whether for consequential loss or otherwise) for any delay in despatch or delivery or for failure or inability to supply goods if such delay, failure or inability arises wholly or in part from Act of God, war, riots, civil commotions, accident, strikes or lockouts, fire, delay in transportation, shortage of material, Government orders or regulations or any event (whether or not similar to any of the foregoing) beyond the Company's control.
- E. Where the Goods are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.
- F. If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable control or the Customer's fault, and the Company is accordingly liable to the Customer, the Company's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- G. If the Customer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Company's fault) then without prejudice to any other right or remedy available to the Company, the Company may:
 - i) store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or
 - ii) sell the Goods at the best readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the

price under the Contract or charge the Customer for any shortfall below the price under the Contract.

7) Claims

- A. No claim for damage, pilferage, non, late or short delivery will be accepted by the Company and the Company shall be under no liability in respect thereof unless:-
- i) the Customer shall comply strictly with the procedure for making claims set out in paragraph 7.C below; and
 - ii) the Customer shall give to the Company all necessary authority and assistance to enable the Company to claim against the carrier when loss or damage occurs.
- B.
- i) the Company's responsibility shall cease on delivery of the Goods to the Customer as provided for in paragraph 6 hereof
 - ii) the Company's liability shall be limited to the full invoice price including VAT of Goods lost or damaged and the Company shall have the right in full discharge of such liability to supply replacement Goods of the same kind as those Goods lost or damaged.
- C.
- i) **claims for Non-Delivery.** Where there is no delivery of Goods invoiced to a Customer, written notification must be sent by the Customer to both the carrier and the Company within fourteen (14) days from the date of the invoice (quoting the invoice reference and date)
 - ii) **claims for Short Delivery, Pilferage or Damage.** The Customer must upon delivery examine and count all packages, cases etc, in the carrier's presence and
 - (a) record on the delivery sheet particulars of any damage or apparent pilferage or loss and if the number of packages cases etc. shown on the delivery sheet differs from the number delivered, the Customer must indicate this on the delivery sheet, and
 - (b) if apparently in perfect condition the Customer should give a clear signature accompanied by the signer's name in block capitals (a signature with 'unexamined' should not be given as this will be deemed for all purposes as equivalent to a clear signature), and
 - (c) unpack and check the contents immediately as the Goods shall be deemed accepted and the Company shall be under no liability in respect thereof unless within fourteen (14) days of delivery advice in writing of any shortage, pilferage, or damage (including those recorded on any delivery sheet) is given by the Customer to the carrier and to the Company (Sales Order Processing Department).
 - (d) where imperfect Goods are to be returned to the Company, the Company will only accept the risk of the Goods in transit if the conditions set out in paragraph 8 below are strictly observed.
- D. Where a claim is accepted by the Company and the conditions set out in paragraph 7.C. above and paragraph 8 below have been strictly observed, then after invoicing the Customer for the missing or damaged Goods, the Company will credit the Customer with the amount of the loss not exceeding the value, including VAT of goods missing or damaged.

8) Return of Goods to the Company

- A.
- i) no Goods may be returned to the Company except with its prior consent in writing and no goods shall be accepted by the Company for return unless the procedures in paragraph 8.B. below are strictly complied with

- ii) the Company is under no obligation to accept the return of Goods which were without defect when delivered to a Customer. If the Company does consent to such return or if the Customer shall refuse or decline to accept Goods previously ordered by it or if defective Goods are returned by the Customer to the Company without its prior consent in writing then in any such event the Customers shall pay the cost of all carriage

B. The transit risk in all Goods returned to the Company shall lie with the Customer unless:

- i) a valid return note has been issued by the Company to the Customer signed by an authorised representative of the Company authorising the return of the Goods returned; and
- ii) a carrier nominated by the Company for the purpose is used; and iii) the Goods are securely packed; and
- iv) a copy of the returns note is handed to the carrier upon collection of the Goods; and
- v) each package contains a clear indication of the Customer's name, address and a complete list of its contents; and
- vi) a receipt is obtained from the carrier for the number of packages returned, which must be produced to the Company on request, in which event the Company will accept the risk in the Goods returned from the moment that they are delivered up by the Customer to the carrier for return to the Company.

9) Property and Risk

A. Risk in Goods supplied by the Company shall pass to the Customer upon delivery.

Notwithstanding delivery of the Goods and the passing of risk in the Goods to the Customer, legal and equitable ownership of the Goods shall not pass to the Customer until full payment has been received by the Company in cash or cleared funds for and in respect of those Goods and any other Goods previously delivered by the Company to the Customer.

B.

- i) until ownership passes the Customer shall hold the Goods as bailee for the Company and on a fiduciary basis and shall return the same to the Company immediately on request and shall refrain from encumbering them in any way, and shall store them at no cost to the Company separately from any other Goods on the Customer's premises, clearly marked and identifiable as the Company's property; and
- ii) in the event that any contract for the supply of Goods is determined or repudiated or if any of the events set out in paragraph 11 below occurs or in the event that the Customer fails to deliver up any Goods on the request of the Company the Customer hereby gives to the Company irrevocable authority without notice in any such event to enter the Customer's premises for the purpose of collecting and removing Goods in which ownership has not passed to the Customer.

C. Notwithstanding the above, the Customer may (subject to paragraphs 9.D and 11 below) sell the Goods in the ordinary course of its business but may not otherwise deal with, sell, part with possession of, consume, pledge or in any way charge by way of security for any indebtedness any of the Goods or otherwise dispose of the Goods until ownership of them has passed to the Customer as aforesaid.

D. Any sale by the Customer permitted by paragraph 9.C. above of Goods which immediately prior to the sale remain the property of the Company as aforesaid shall be made (whether or not in the Customer's own name) by the Customer as agent for the Company and will constitute a sale by the Customer of the Company's property for the account of the Company. As such agent the Customer is hereby

authorised until notice in writing to the contrary is given by the Company to collect the proceeds of any sale on the Company's benefit and the Customer shall account to the Company for the proceeds of such sale save that the Customer shall be entitled to retain for its own account an amount in excess of the outstanding indebtedness of the Customer to the Company at the time of such accounting. Pending such accounting the Customer shall hold such proceeds when received on trust up to such amount for the Company as to any surplus for the Customer. Should the Customer's authority to collect such proceeds be determined by written notice as aforesaid the Company shall account to the Customer in respect of any amount received by the Company in excess of the outstanding indebtedness of the Customer.

10) Warranties and Liabilities

A.

- i) subject otherwise to the terms of these Conditions and in particular to those set out below the Company warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of twelve (12) months from the date of their initial use or twelve (12) months from delivery whichever is the first to expire
- ii) the above warranty is given by the Company subject to the following conditions:
 - (a) the Company shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Customer
 - (b) the Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions whether oral or in Writing, misuse or alteration or repair of the Goods without the Company's approval
 - (c) the Company shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the price for the Goods has not been paid by the due date for payment
 - (d) the above warranty does not extend to parts, material or equipment not manufactured by the Company, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company.
- iii) subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law
- iv) where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order (1976) the statutory rights of the Buyer are not affected by these Conditions
- v) 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, 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 Company, 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 Customer, except as expressly provided in these Conditions.

11) Determination

- A. If the Customer shall commit a breach of any of the Customer's obligations to the Company under this contract or if the Customer shall fail to make any payment on the due date or if any distress or execution shall be levied upon the Customer's property or assets or if the Customer shall make or offer to make any arrangement or composition with creditors or commit an act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against him or the Customer cases, or threatens to cease, to carry on business or if the Customer is a limited company and any resolution or petition to wind-up its business shall be passed or presented or if a receiver or administrator of such company's undertaking property or assets or any part thereof shall be appointed or if the Company reasonably apprehends that any of these events is about to occur in relation to the Customer and notifies the Customer accordingly then
- i) the Company's permission granted in paragraph 9.C. above to sell the Goods shall thereupon terminate automatically and the Company shall be entitled to repossess the Goods immediately as set out in paragraph 9.B (ii) above; and/or
 - ii) the Company shall be entitled forthwith without formally to determine any contract with the Customer then subsisting and the Company shall be entitled to recover from the Customer all losses, costs, damages and expenses thereby arising

12) Data Protection

- A. The Company shall process any personal information submitted by the Customer to the Company under these Conditions in accordance with the Company's Privacy Policy, which can be found at <http://www.smeguk.com/privacy-policy/>.
- B. By submitting an order the Customer confirms it has read and understood the provisions of the Privacy policy.

13) Miscellaneous

- A. The Company is a member of the group of companies whose holding company is Smeg Spa and accordingly the Company may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such member shall be deemed to be the act or omission of the Company.
- B. The rights and liabilities of the Customer hereunder shall not be assignable by the Customer without the prior written consent of the Company.
- C. These Conditions shall be governed by and interpreted according to the laws of England and the English Courts shall have exclusive jurisdiction in any dispute.
- D. The Customer agrees not to alter or remove any trade mark of the Company which has been applied to the Goods not to apply any other mark or name to the Goods nor before resale of the Goods to make any alteration to their state, condition, get-up or packing.
- E. 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 notice.
- F. 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.
- G. 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.