

NORTHWEST ROOFING SUPPLIES CONDITIONS OF SALE

THESE CONDITIONS CONTAIN EXCLUSION AND LIMITATION OF LIABILITY CLAUSES AND YOU ARE REFERRED IN PARTICULAR (BUT NOT EXCLUSIVELY) TO THE PROVISION OF CLAUSES 1,3,5 AND 6.

1. Conditions to apply exclusively entire agreement variations to the contract

- 1.1No contract shall come in to force until we send to you our order acceptance form
- 1.2These conditions shall apply to all contracts for the sale of goods by us to you to the exclusion of all other terms and conditions. Acceptance of delivery of the goods shall be conclusive evidence of your acceptance of these conditions and no action on your part, including but not limited to any physical acceptance by you of the goods on different terms, shall have effect to the contrary.
- 1.3You expressly agree that these conditions and any specification(s) or other documents that are expressly agreed in writing as being part of the contract shall constitute the entire contract between us. You expressly agree that oral agreements or representations of any kind on our part are not part of the contract unless confirmed in writing by an authorised person within our organisation. In particular, our salespersons are not authorised to contract on different terms than those contained herein or to make representations regarding the goods unless confirmed in writing by one of our authorised persons.
- 1.4Variations of the contract to be effective must be agreed in writing by one of our authorised representatives
- 1.5These conditions replace any other terms and conditions previously agreed or existing between us.

2. Price and payment

- 2.1Unless otherwise agreed in writing all prices are quoted net ex-works exclusive of VAT for payment in sterling and include delivery in the UK (but excluding over-night delivery which is subject to additional charges) and packaging ex-works. Delivery elsewhere and on other basis is subject to you paying carriage, packaging and all other costs, duties and levies to effect delivery to the agreed destination. Each order below a minimum £250 (exclusive of VAT) will be subject to an additional charge of £12.50 (exclusive of VAT) to cover administration.
- 2.2We reserve the right to increase the sale price prior to delivery without giving prior notice by not more than 5%. Price increases beyond 5% shall be subject to our obtaining your agreement.
- 2.3Written quotations are open for acceptance for 30 days unless otherwise extended in writing and shall automatically lapse unless we otherwise agree in writing. Prices quoted in our sales literature, on our website or elsewhere are subject to change.
- 2.4Payment is due within 30 days of the date of the invoice. Time for payment shall be of the essence. In all cases payment on the due date shall be a condition precedent to further performance by us and, without prejudice to any other rights, we may suspend our performance under the contract or any other contract we have with you until payment has been made. If so required by us at the time of your order, we shall not send you an acceptance form or deliver the goods until you have put us in cleared funds to the sum of 10% of the purchase price.
- 2.5Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 8% per annum above Lloyds Bank plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgement. We reserve the right to claim under the Late Payment of Commercial Debts (Interest) Act 1998.
- 2.6You shall reimburse us in respect of any additional costs and expenses incurred as result of any delay in the performance of your obligations including but not limited to failure to take delivery or supply any necessary information.
- 2.7All payments due to us shall be made in full without any form of set-off or other deduction unless the set-off or deduction is the subject of a court judgement in your favour.

3. Delivery and Risk

- 3.1Unless otherwise agreed in writing delivery shall be ex-works our UK premises. All actions carried out by us to effect delivery elsewhere than our UK works shall be done as your agent and at your cost. You shall be liable for payment of all export or import duties, charges or levies. You agree to promptly provide any information or assistance necessary to enable us to arrange carriage and any import or export documentation.
- 3.2Risk in the goods passes (a) Where we physically deliver upon good tender of delivery (b) where we employ a carrier/freight forwarder upon delivery to the carrier/freight forwarder (c) where you are to collect - then 7 days after notification to you that the goods are ready for collection. If you fail to collect or accept delivery we may charge/recharge you storage, redelivery or insurance costs.
- 3.3Costs of carriage and any insurance which you reasonably direct us in writing to incur shall be reimbursed by you without any set-off or other withholding and shall be due on the date for payment of the price. As between you and us, any carrier will be regarded as acting as your agent.
- 3.4Section 32 (3) of the Sale of Goods Act 1979 shall not apply.
- 3.5Time for delivery is given as accurately as possible but is not guaranteed and TIME OF DELIVERY IS NOT OF THE ESSENCE. You shall have no right to damages or to cancel the contract for failure for any reason to meet any delivery time stated. If a stated time has passed (or if none then if a reasonable time has passed) then following written notification by you of a request to deliver and we have not been able to deliver within 10 days of your request then your sole right shall be to cancel the contract and reclaim any deposit or part payment made.
- 3.6We may deliver in instalments of any size and in any order and shall be entitled to invoice accordingly. Failure of delivery of an instalment whether in terms of delivery, or quantity or quality or performance shall not enable you to terminate the whole contract or refuse further deliveries unless we fail to remedy the same within a reasonable time.
- 3.7Inspection
- 3.7.1You are under a duty to inspect the goods at the place and time of unloading and you shall advise us in writing within 5 working days of unloading (*the notice procedure*) of any claim for short delivery or other discrepancy in delivery.
- 3.7.2If you fail to follow the notice procedure the goods will be deemed to have been delivered in the quantities stated in the invoice and the goods will have been deemed to have been accepted and you shall not be entitled and irrevocably and unconditionally waive any right to reject the goods.
- 3.7.3Our sole liability for short delivery is limited to making good the shortage.

4. Title

- 4.1Title to the goods shall only pass to you when we have received cleared payment of all sums (including any default interest) owing by you to us under the contract and under all other contracts between us and you including any sums owing by you under contracts made after the contract whether or not the same are immediately payable.
- 4.2We may recover the goods in respect of which title has not passed to you at any time and you hereby licence us and our agents to enter upon your premises for the purpose either (a) of satisfying ourselves that conditions 4.3 and 4.4 below are being complied with by you or b) of recovering any goods in respect of which title has not passed to you.
- 4.3Subject to 4.4 below, until title to the goods has passed to you, you shall possess the goods as our fiduciary agent and bailee. You shall store the goods separately from other goods, shall ensure that they are clearly identifiable as belonging to us and insure them for their reinstatement value.
- 4.4Until title passes you may process and/or dispose of the goods in the ordinary course of business. These rights shall cease upon the first occurrence of any of the events described in clause 9.
- 4.5The rights in this clause are severable to the fullest extent possible. Furthermore we may exercise such rights against any of the goods as remain (notwithstanding intermediate processing) identifiable and/or severable and available.
- 4.6We may maintain an action for the price of the goods notwithstanding that title has not passed to you.

5. Our Liability

- 5.1All descriptions of the goods in brochures, sales materials and the like (which shall not form part of the contract) are merely indicative of the nature of the goods. We reserve the right to alter the appearance or functionality of the materials or components of the goods provided always they do not differ from any expressly agreed specification. Any advice or suggestions made by us or on our behalf whether in brochures, technical literature or in response to a specific query as to the usability or suitability of the goods for a specific purpose is given in good faith on a goodwill basis only and on the basis of any information supplied by you. However, it remains your ultimate responsibility to ensure (by trial use or processing if necessary) that the goods will be suitable in all respects.

- 5.2Nothing in these conditions shall limit or exclude liability for death or injury caused by our negligence to the extent that it is not lawful to exclude or liability arising out of any act involving fraud.
- 5.3We will not be responsible for physical loss or damage beyond the limit of our relevant insurance cover, details of which can be provided upon request.
- 5.4Subject to 5.2 or as elsewhere expressly provided for in these conditions, the maximum liability in relation to any breach of our obligations under the contract which we have not remedied following written notice to do so will not in any event exceed in the aggregate a sum which consists of:

a)the return of the purchase price or the relevant goods plus

b)a sum which is the greater of the price of the relevant goods or £5,000.

and you agree to carry appropriate insurance to cover the risks for which we do not accept liability.
- 5.5You acknowledge that our prices would inevitably be greater if our liability were not to be limited as above. Subject to 5.2 our exclusions and limitations of liability relate to any claim whether in contract, tort (including negligence), strict liability or other form of legal liability. For the avoidance of doubt, heads of damage recoverable include losses in the nature of direct losses generally understood under English law save that loss of profits, loss of revenue or loss of production are excluded. Losses in the nature of consequential losses as understood under English law including, but not limited to, third party claims are excluded. We shall not be deemed to have knowledge of any special circumstances that would create or increase our liability even in circumstances where you inform us of the same.

6. Warranty from Defective Goods

- 6.1Sections 13 to 15 of the Sale of Goods Act 1979 do not apply and apart from section 12 of the Sale of Goods Act 1979, no other terms shall be implied whether by statute or common law. Our liability for any goods being defective due solely to not being in accordance with any specification, poor workmanship or faulty materials or faulty packaging is strictly limited to the rights contained in this clause. Our sole liability in respect of defective goods supplied by us shall, at our option, be limited to crediting you with the purchase price of the relevant goods or making good any defect by replacement or repair.
- 6.2For the purpose of this clause 6, goods will only be regarded as being defective if they are proved to be so to our reasonable satisfaction (the goods having been returned to us at your expense for inspection if so requested by us (such expense to be reimbursed by us if the goods are defective)) and in any event the defect appears and has been notified to us within the period of 72 hours following delivery of the goods to you in cases where the defect would have been apparent upon reasonable inspection at the time of delivery (whether or not such inspection takes place) or 5 months in all other cases and if the defect is solely attributable to failure of specification prepared or supplied by us, poor workmanship, faulty materials or faulty packaging and not as a result of any other reason such as any misuse of the goods, use in abnormal situations, alteration or modification or failure due to an inherent defect in a specification supplied by you, or to fair wear and tear. In the event that the goods are not defective then you shall reimburse our reasonable costs of inspection and of returning them to you.

7. Cancellation

- 7.1Standard goods Domestic and Export orders - You may cancel the order at any time provided that it is received in sufficient time to enable us using reasonable means to cancel the despatch process. Where an order is cancelled in accordance with the foregoing then we will charge a cancellation charge of up to 25% of the order value for domestic sales and up to 50% for export sales.
- 7.2Non standard goods. Domestic and Export orders - orders for non-standard goods may not be cancelled except with our express written agreement and upon such terms as we may, in our absolute discretion, agree.

8. Samples

- 8.1Where we have supplied sample(s) to you so that you may examine the quality of the goods, the supply of such sample(s) shall not constitute a sale by sample. You acknowledge that sample(s) provided belong to us and shall remain our property unless otherwise agreed in writing.

9. Insolvency etc

- 9.1If you become bankrupt or, under any statutory provisions applicable to you, you are deemed to be unable to pay your debts or if you compound with your creditors or a resolution is passed or proceedings commenced for your administration or liquidation (other than for a voluntary solvent winding up for the purpose of reconstruction or amalgamation) or if a receiver, administrative receiver or manager is appointed over all or any part of your assets or undertaking or if any of your goods or assets are subject to execution or if you are or become in arrears with any of your payments to us, or if you charge the goods in favour of a third party, we shall be entitled at our option to (i) suspend performance pending our being satisfied that you will be able to comply with your obligations and, if not so satisfied, cancel the contract to or (ii) cancel the contract in whole or in part with immediate effect by notice or writing.

10. Force Majeure

- 10.1Neither of us shall be liable for any delay, default or hindrance in the performance of its obligations due to an event beyond its reasonable control including but not limited to Act of God, war, strike, lockout, transport delays, shortages of materials, industrial action, fire, flood, drought, storm or inclement weather. Any periods for performance shall be appropriately extended.
- 10.2In the event that such an event shall continue for a period in excess of 30 days and is such as to prevent substantial performance then either party can terminate the contract. Our only liability in such an event is to refund any monies (pro-rata) received for any goods that we are unable to deliver. Your only liability is to pay (pro-rata) for any goods that have been delivered or capable of delivery.
- 10.3Where we cannot meet demand due to any situation described in (but not limited to) clause 10.1 above, we reserve the right (in our absolute discretion) to supply our customers in the proportions as we see fit and fair.

11. Assignment

- 11.1Your rights under these conditions are intended solely for your benefit and are not assignable.
- 11.2The contract is not assignable by either of us to any third party without the express written consent of the other.

12. Waiver

- 12.1No inaction on the part of either of us shall constitute any waiver of any past breach or be construed as a variation of the contract or waiver of present or future obligations.

13. General and Interpretation

- 13.1Headings in these conditions are for convenience only and do not affect the interpretation of any particular provisions.
- 13.2Periods of days refers to days Monday to Friday excluding public or bank holidays in England and Wales
- 13.3The Contracts (Rights of Third Parties) Act 1999 shall not apply for the benefit of any third party provided that the terms hereof shall equally apply to any company which is our ultimate holding or subsidiary company or subsidiary of our ultimate holding company who may be involved in the provision of the goods.
- 13.4Statutory references include any regulations thereunder. All express or implied references to statutes or regulations include any re-enactments thereof.
- 13.5If any provision is held to be void or illegal then the remainder shall continue in force to the fullest extent possible.
- 13.6References to laws, remedies, legal status or other legal concepts shall, if you are an overseas customer, be deemed to include the nearest equivalent applicable to you.
- 13.7A right or remedy described in these conditions is in addition to, and does not prejudice or affect, any other terms, rights or remedy implied by or available under these conditions or by statute or common law.

14. Law and Jurisdiction

- 14.1The contract shall be governed and interpreted exclusively according to the law of England and shall be subject to the exclusive jurisdiction of the English courts save that we shall be entitled to initiated an action in any applicable court.
- 14.2The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to the contract.