

SURFTECH SURFACES LIMITED

STANDARD CONDITIONS OF SALE

1. DEFINITIONS

- (a) In these conditions "the Company" shall mean any person, firm or company placing an order with the Company.
- (b) Contracts and orders are only accepted upon and subject to the Company's Standard Conditions of Sale subject only to any variation or qualification agreed in writing before such acceptance by the Company.
- (c) If there is any conflict arising between these Standards Conditions of Sale and any conditions which the Buyer may seek to impose in relation to his order the Company's Standard Conditions of Sale shall prevail.

2. CONCLUSION OF CONTRACT

These Conditions are the only conditions upon which the Seller is prepared to deal with the Buyer and they shall govern this contract to the entire exclusion of any other express or implied conditions.

3. PAYMENT

- (a) Unless the Seller otherwise agrees, payment is due in full by the last day of the month following the month in which the Goods in respect of this Contract are delivered to the Buyer.
- (b) All payments shall be in accordance with the terms set out herein and in the event of non compliance therewith the Company reserves the right to make an additional charge at a rate not exceeding 4% above the base rate from time to time of Barclays Bank PLC per annum on any sums outstanding due by the Buyer to the Company from time to time and which shall be notified to the Buyer.
- (c) If payment is not made in accordance with these terms, or if at any time the credit standing of the Buyer has (in the opinion of the Seller) been impaired, the Seller may refuse delivery of any Goods required under this Contract until arrangement as to payment or credit have been established which are reasonably satisfactory to the Seller.

4. CANCELLATION

No cancellation shall be deemed to have been effected by the Buyer unless confirmed in writing by the Company. Any costs incurred by the Company on behalf of the Buyer which upon cancellation are not recoverable by the Company will be payable by Buyer and invoiced accordingly.

5. DELIVERY

- (a) Any date for delivery named by the Company is estimate only and in no circumstances shall the

- Company's failure to deliver on or before the named date or time either entitle the Buyer to rescind or terminate the contract or make the Company liable in any way for the consequences of any delay unless time shall have been expressed to be of the essence of the particular contract.
- (b) The Buyer undertakes to accept delivery as and when the Goods are ready and no cancellation shall be permissible without the prior written agreement of the Company.
- (c) Goods from stock are offered subject to being unsold and available upon receipt of the order.

6. TITLE AND RISK

- (a) The Goods shall be at the Buyer's risk from the time of delivery or, if earlier, when they are placed at the Buyer's disposal.
- (b) Notwithstanding delivery, the Goods sold hereunder remain the absolute property of the Seller until payment of all amounts invoiced by the Seller to the Buyer in respect of the Goods has been made and including debts arising before the date of this contract.
- (c) The intending Buyer acknowledges that until such time as payment has been made it is in possession of Goods solely as bailee for the Seller and shall store the Goods separately from its own goods in such a fashion as to be readily identifiable by the Seller and so as to ensure that they remain in good condition and of merchantable quality.
- (d) In the circumstances where the Goods are delivered to an address specified by Buyer, the Seller shall be entitled at any time until resale or use of the Goods immediately after giving notice of its intentions to do so to enter upon the premises of the Buyer with such transport as may be necessary and repossess any Goods to which it has title hereunder.
- (e) Nothing in this Clause shall confer any right on the Buyer to return the Goods sold hereunder or to refuse or delay payment thereof, unless otherwise agreed.

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7. WARRANTY

(a) The Seller warrants that the Goods are of merchantable quality and that they shall, at the time of delivery, correspond to the published specifications of the Seller when used for purposes for which goods of that type are ordinarily used. In the absence of any published specifications applicable to the Goods, the Seller warrants that the Goods shall at the time of delivery be of normal industrial quality but no warranty is given as to precise matching of colour between batches of the Goods. If any of the Goods do not conform to these warranties the Seller will, (subject to paragraph (b) below) at its option:

- (i) replace the Goods found not to conform To the warranty;
 - (ii) bring the Goods into conformity with the Published specifications of the Seller or (as the case may be) normal industrial quality or;
 - (iii) take back the Goods found not to conform to the warranty and refund the appropriate part of the purchase price provided that
 - (a) the liability of the Seller shall in no event exceed the purchase price of the Goods;
 - (b) performance of any one of the above options (as limited by (iii) (a) above) shall constitute an entire discharge of the Seller's liability under this warranty
- (b) The liability of the Seller under the foregoing paragraph (a) is conditional upon:
- (i) the Buyer complying with the provisions of Clause 10 if applicable;
 - (ii) the Buyer giving written notice to the Seller within 14 days of the time when the Buyer discovers or ought to have discovered the alleged defect and, in any event, within three months of delivery of the Goods.
 - (iii) the Buyer affording the Seller a reasonable opportunity to inspect the the Goods.
 - (iv) the Buyer making no further use of the goods that are alleged to be defective
 - (v) the Buyer having stored the Goods in conditions suitable and proper for their preservation in good condition including protection against extremes of temperatures.

(c) Whilst the Seller will use its best endeavours insofar as shall be necessary or relevant in relation to the particular Goods supplied to give instruction, recommendations and advice to a Buyer in respect of

storage, application or use of the Goods, the purposes to which the Goods may be applied and the suitability of using the Goods in any process or in conjunction with any other materials, it shall be understood that it shall be the entire responsibility of the Buyer to satisfy himself that the intended application of the Goods is suitable in particular circumstances of the process, production or storage method used in his utilisation of the Goods.

8. QUANTITIES

- (a) If the quantity of Goods delivered is less than the contract quantity, the Buyer shall be entitled only, as its option, to;
- (i) a further delivery of Goods to make up the deficiency; or
 - (ii) a reduction in the purchase price at the contract rate provided that, if the Buyer does not comply with the provisions of clause 9, it shall be bound to pay the full purchase price without any additional delivery of goods.
- (b) If the quantity of Goods delivered exceeds the contract quantity , the Buyer shall be entitled only, at its option, to;
- (i) return the excess; or
 - (ii) retain the excess and pay for it at the contract rate provided that, if the Buyer does not comply with Clause 9, it shall be bound to retain the excess and pay for it at the contract rate.

9. NOTICE OF DAMAGE OR NON-DELIVERY

- (a) The provisions of paragraph (b) shall apply where the Buyer alleges that:
- (i) the Goods do not comply with their description or with the warranties in Clause 7 (a) and the non-compliance is one which should have been apparent on a reasonable visual inspection of the Goods; or
 - (ii) the quality of Goods delivered does not correspond with the contract quantity.
- (b) The Buyer shall have no claim upon any of the grounds mentioned in paragraph (a) above unless:
- (i) the receipt for the Goods is qualified by a reference to the alleged deficiency; and
 - (ii) a claim is made upon the Seller within 48 hours of delivery and is confirmed in writing by letter received by the Seller within five days of delivery.

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(c) No Claim for damage in transit, shortage of delivery or loss of goods in transit can be accepted unless, in the case of damage in transit or shortage of delivery, a separate notice in writing is given both to the carrier concerned (if not the Company) and to the Company within three days of receipt of the Goods, followed by a complete claim in writing written five days after receipt of the Goods, and in the case of loss of Goods, notice in writing is given to the carrier concerned and to the Company, and a complete claim in writing made within twenty-one days of the date of the consignment. Where Goods are accepted from the carrier concerned without being checked the delivery book of the carrier must be signed "not examined".

10. RETURN OF GOODS

- (i) In no circumstances shall any of the Goods be returned to the Seller without the Seller's prior written warning.
- (ii) Any Goods returned must be adequately identified and properly packed and returned in good condition, carriage paid, to the Company's works.

11. FORCE MAJEURE

The Seller shall not be liable for any loss or damage caused by delay in the performance or non-performance of any of its obligations hereunder where the same is occasioned by any cause whatsoever that is beyond the Seller's control including but not limited to an Act of God, war, civil disturbance, requisitioning governmental or parliamentary restrictions prohibitions or enactments of any kind, import or export regulations, strike lockout or trade dispute (whether involving its own employees or those of any other person), difficulties in obtaining workmen or materials, breakdown of machinery, fire or accident. Should any such event occur the Seller may cancel or suspend this Contract without incurring any liability for any loss or damage thereby occasioned.

12. GOVERNMENTAL CHARGES

The price and all other sums due to the Seller hereunder are subject to the addition of Value Added Tax (or any new tax hereinafter levied on the sale, production or transportation of the Goods other than a tax computed by reference to the profits of the Seller) at the rate which is applicable from time to time.

13. ASSIGNMENT

This contract is personal to the Buyer and may only be assigned by it with the prior written consent of the Seller.

14. GOVERNING LAW

The Agreement will be governed by and construed in accordance with English law. The Buyer irrevocably submits in respect of all matters and disputes arising out of this Agreement to the exclusive jurisdiction of the English Courts.

15. EXPORT

- (a) The Uniform law on International Sales shall not apply to this Contract.
 - (b) Any terms used on the face hereof which are defined in Incoterms shall bear the meaning given to them in the current edition of incoterms.
 - (c) The Buyer shall reimburse the Seller for any carriage, freight and insurance and other charges to the extent that any such costs incurred by the Seller are not included in the price of the Goods.
 - (d) Packing cases, where required will be charge at cost.
- The under signed agrees to abide by these terms and conditions.**