

C.J. UPTON & SONS LTD
CONDITIONS OF SALE

1. GENERAL

THE CONDITIONS SET OUT BELOW ARE THE ONLY TERMS ON WHICH WE ARE PREPARED TO DO BUSINESS, unless a variation is specifically agreed in writing, signed by a director of C.J. Upton & Sons Ltd, (the "company"), personally. If a purchaser or prospective purchaser wishes to negotiate a variation of the conditions, either generally or in relation to a specific clause or a specific transaction, he must state such desire in writing by letter addressed for the personal attention of the managing director of the Company, when the matter will be given attention. By not sending such letter, and subsequently not being in possession of the Company's agreement in writing to any variation, the purchaser or prospective purchaser acknowledges that he accepts these conditions and that as between himself and the Company any standard terms which may appear on the Buyers stationery shall be of no effect.

2. PRICE

Unless specifically negotiated and so confirmed in writing, prices charged will be those ruling at the date of despatch and the Company reserve the right to make any adjustment necessitated by material and / or labour cost fluctuations. Material will be charged as agreed with the buyer at either a price per unit or a rate per tonne. Where a weight is advised this will, unless specifically agreed, include packaging deemed necessary for the safe handling of the material when unloaded and stored at the buyers premises. In the event that the material is not weighed for whatever reason, the Seller may calculate the theoretical weight including 2 ½ % for packaging.

3. PAYMENT

Prices quoted are net and, except where otherwise agreed are payable on delivery. If requested, and subject to status, the Company is normally prepared to agree that accounts shall be due for payment not later than the end of the month following the month of despatch or notification that the goods are ready for despatch. Unless otherwise agreed in writing the purchaser shall pay to the Company interest on the price of all goods delivered (including carriage and other charges) at the rate of 0.05% per day from the date of delivery to the date of payment, unless payment is made in full by the purchaser at the latest by the expiration of the month following the month of despatch of the goods. The purchaser shall indemnify and repay the Company in respect of all reasonable fees incurred by them to agents and/or solicitors to recover the monies due.

4. PRODUCT LIABILITY

The Company shall not be liable for any loss or damage of any description howsoever arising whether caused by the negligence of the Company its servants or agents or otherwise arising directly or indirectly out of or in connection with the goods or their use.

5. CLAIMS

Notice of any visual damage or short delivery must be received by the company within 48 hours by email, and opportunity given for inspection within a further five working days thereafter. Where short weight is alleged, the Company reserves the right to witness a re-weigh of the item or items concerned. In the event of visual damage, it must be shown to have existed at the time of delivery and any claims for "wet" or "moisture stained" material will only be entertained if the material was unloaded indoors and stored at a reasonably constant temperature in dry conditions. Claims for hidden defects may be subject to an independent surveyors report and if proven, the Company shall replace the faulty goods or credit the Buyer with the purchase price. The Company does not accept claims for labour or other costs arising from the supply of faulty goods. The Buyer shall satisfy himself that the goods are suitable for his purpose before processing and no claims will be entertained for goods after processing.

6. CANCELLATION

At the request of the Buyer, the Company is prepared to consider the acceptance of cancellation of any orders subject to payment of any liability incurred by the Company. Such cancellation charges to be reasonably agreed. CJ Upton & Sons Ltd reserve the right to charge a reasonable handling fee in the event that they agree to the return of material that is no longer required.

7. RESERVATION OF TITLE

UNTIL full payment has been received by the Company for all goods whatsoever supplied (and all services rendered) at any time by the Company to the Buyer:-

- (a) Property in the goods shall remain in the Company.
- (b) Should the goods (or any of them) be converted into a new product, whether or not such conversion involves the admixture of any other goods or thing whatsoever and in whatever proportions, the conversion shall be deemed to have been effected on behalf of the Company and the Company shall have the full legal and beneficial ownership of the new products, but without accepting any liability whatsoever in respect of such converted goods in relation to any third party, and the Buyer hereby indemnifies the Company in relation thereto.
- (c) Subject to (d) and (e) below, the Buyer shall be at liberty to sell the goods and the new products referred to in (b) above, in the ordinary course of business on the basis that the proceeds of sale shall belong to the Company to whom the Buyer shall account.
- (d) The Company may at any time revoke the Buyer's power of sale by notice to the Buyer, if the Buyer is in default in the payment of any sum whatsoever due to the Company (whether in respect of the goods or any other goods supplied) or services rendered at any time by the Company to the Buyer or for any other reason whatsoever (or if the Company) has bona fide doubts as to the solvency of the Buyer.
- (e) The Buyer's power of sale shall automatically cease if a Receiver is appointed over any of the assets or the undertaking of the Buyer or a winding up order is made against the Buyer, or the Buyer goes into voluntary liquidation (otherwise than for the purpose of reconstruction or amalgamation) or cause a meeting of or makes any arrangements or composition with creditors or commits any act of bankruptcy or allows execution to be levied against its or his goods;
- (f) Upon determination of the Buyer's power of sale under (d) or (e) above, the Buyer shall place the goods and the new products at the disposal of the Company who shall be entitled, using such means as is reasonably necessary to enter upon any premises of the Buyer for the purpose of removing such goods and new products and to remove such goods and new products from the premises (including severance from the realty where necessary).