

1 Definitions

- a) "The company" shall mean Pentagon Tile Distributors Limited.
- b) "The customer" shall mean any person, firm, company or organisation to whom the Company agrees to sell "the goods";
- c) "The Goods" shall mean the goods (and any parts thereof) the subject matter of the contract as described in these conditions and (if appropriate) on the face of the Company's acknowledgement of order form;
- d) "The Manufacturer" shall mean the manufacturer of the Goods where the Company does not manufacture the Goods.

2 Technical Advice

The Company's authorised representative, in good faith and for general guidance only, gives technical and other advice. The Company is not liable for errors, or defects by the Manufacturer or for other circumstances beyond its control.

3 Samples

Samples are exhibited solely to enable the Customer to judge the quality of the Goods, but not so as to constitute a sale by sample.

Any sampling or merchandise material supplied, whether chargeable or FOC are done so for the purpose of obtaining sales order for Pentagon Tile Distributors Ltd only.

4 Variations

The Goods are supplied within the Manufacturers tolerance limits of size, texture and colour variations. Marble and stone is supplied subject to natural colour variation.

5 Comparison with Previous Order

The Company cannot guarantee to match shades and/or calibration of previous orders.

6 Crazying

No guarantee can be given against crazing.

7 Price Quotations

Quotations are given in good faith on the basis of current costs and are open for acceptance for a maximum period of 30 days from the date thereof. The price is subject to amendment in the event of alteration of the manufacturers price, or changes in currency rates.

8 Representations

If the Customer wishes to rely upon any statement or representation other than any made in documents enclosed with the Company's quotation or acknowledgement of order then the Customer must set out that statement or representation in a document to be attached to or endorsed on the order and in any such case the Company may confirm reject or clarify the point and submit a new quotation.

9 Delivery Quotation

Time is not of the essence of the Contract. Quotations as to delivery time are given in good faith, but delivery is subject to availability of the Goods and raw materials and supply from the Manufacturer. Every effort will be made to effect delivery within a quoted period. Where delivery is not effected within such quoted period the Customer shall accept delivery of the Goods within such further period which is reasonable in all the circumstances PROVIDED THAT if the Customer is of the reasonable opinion that such reasonable period has expired he shall give written notice to that effect to the Company stating his reasons for such opinion whereupon such reasonable period shall be deemed to expire 15 days after service of such notice. The Customer shall have no right to claim damages or cancel the order for any delay in delivery not exceeding 15 days beyond such reasonable period.

10 Acceptance of Delivery

Acceptance of the Goods or payment for the Goods by the Customer to the Company shall of itself constitute an acceptance of these conditions where acceptance has not previously been communicated to the Company.

11 Force Majeure

In the event that the manufacture or delivery of any of the goods is prevented or hindered directly or indirectly by fire, the elements, war, civil commotion, strikes or lock outs, industrial dispute, shortage of fuel notwithstanding that the Company has taken all reasonable steps to procure the same, shortage of labour, break down or partial failure of vehicles plant or machinery, acts, orders or regulations of Government, delay on the part of any independent sub-contractor or supplier, or any other cause whatsoever beyond the reasonable control of the Company then the time for delivery of the Goods shall be extended for a reasonable period having regard to the effect of the delaying cause on the manufacture or delivery.

12 Place of Contract

The contract is deemed to have been made at the Company's place of business, for the purpose of the order.

13 Passing of Property

- a) Title to the Goods shall not pass to the Customer until the Customer has paid to the Company all sums due and payable by it to the Company under this contract and all other prior contracts between the Company and the Customer and until title to the Goods has passed to the

Customer the Customer shall possess the Goods or any part thereof as a bailee of the Company and shall store the Goods or any part thereof separately from other goods so as to ensure that they are clearly identifiable as the property of the Company and shall not use the Goods.

- b) The Company shall be entitled to recover and resell Goods in respect of which title has not passed to the Customer at any time and the Customer hereby license's the Company its officers, employees and agents to enter upon any premises of the Customer for the purpose either of satisfying itself that condition 13a) is being complied with by the Customer or recovering any Goods in respect of which title has not passed to the Customer respect of the Goods or any one or more instalments of the Goods shall entitle the Company to treat the whole of the contract as repudiated by the Customer.
- c) Customer orders being collected, must be collected within 4 weeks of order or arrival of special order items from supplier. Goods stored for more than 4 weeks will incur a storage charge.

14 Delivery

- a) If the Company is requested to deliver to a site, delivery will be to the nearest hard road to the site.
- b) If the Customer requests delivery to a site beyond the nearest hard road then all risk as to the condition of the Goods on delivery is with the Customer, and no claims will be entertained as to condition of the Goods on delivery.
- c) Unloading is the responsibility of the Customer.
- d) Delivery to the site of nearest hard road to the site requested by the Customer, established by a signed delivery note, is conclusive evidence that delivery has been made to the order of the Customer, and in compliance with the agreement.
- e) The Company shall not be required to fulfil orders in the sequence in which they are placed. Failure by the Customer to take delivery of or to make payment in respect of the Goods or any one or more instalments of the Goods shall entitle the Company to treat the whole of the contract as repudiated by the Customer.
- f) Without prejudice to condition 14e) the company will endeavour to comply with reasonable requests by the Customer for postponement of delivery of the Goods but shall be under no obligation to do so and where delivery is postponed by agreement otherwise than due to default by the Company the Customer shall pay all costs and expenses including a reasonable charge for storage and transportation occasioned thereby and payment for the Goods shall be made on the date payment would have been due had delivery not been postponed. Condition of the Goods until delivery has been made (save for deliveries beyond the nearest hard road, in which case condition 14b) shall apply.)

15 Risk

- a) If the Company delivers in its own vehicle, the Company retains the risk for the condition of the Goods until delivery has been made (save for deliveries beyond the nearest hard road, in which case condition 14b) shall apply.)
- b) If delivery is by a carrier or by post, at the request of the Customer, then risk for the condition of the Goods is with the Customer after the Goods have left the Company's premises.
- c) If delivery is by carrier or post or any other means at the Company's choice, then risk for condition of the Goods remains with the Company until delivery.
- d) The Company will charge the Customer for the cost of carriage, post or other delivery affected at the Customer's request and/or consent.
- e) Delivery is completed by arrival of the Goods at the requested or appointed destination and before unloading or unpacking.

16 Payment

- a) Payment will be made within 28 days of presentation of the Company's invoice.
- b) The Company reserves the right to request payment after delivery.
- c) Interest on overdue accounts will be paid at 3% above Bank Base Rate.
- d) A cheque tendered by the Customer in payment shall not be treated as payment until the same has been cleared.

17 Cancellation

The Company will only agree to cancellation of this contract on condition that all costs and expenses incurred by the Company up to the time of cancellation and all loss of profits and other loss or damage resulting to the Company by reason of such cancellation will be paid forthwith by the Customer to the Company. Cancellations will only be accepted in writing with a full description of the product and quantity of the goods to be cancelled. Cancellation of Non-Stock items will not be accepted.

Our standard policy remains that any materials supplied correctly against a customer's order will not be accepted for

return. Returns will only be considered if they are within 10 working day of the delivery/collection and in full boxes in a saleable condition. All goods accepted for return will be subject to 30% handling charge.

If we agree to collect goods for credit:

- a) Only two attempts will be made. If goods are not available or premises closed during our normal delivery times, then any previous agreement to collect and credit will be cancelled without notice.
- b) Any goods returned must be in Re-Saleable condition. Packaging and materials in good clean condition and the shade and calibration matches our existing stock and in full boxes only.
- c) Returns of Non-Stock items will not be accepted.
- d) Goods collected will be examined once they are returned to our warehouse, and only those that comply with conditions 17b) will be credited.
- e) A charge has been notified to you and confirmed on the copies of the collection note, and this is the charge that will be made. This charge is accepted by you by your signed acceptance and release of the goods to our driver.

18 Claims

- a) Any claim as to the condition of the Goods on delivery and which would be apparent on visual inspection must be communicated within three days of delivery and confirmed in writing within five days after delivery.
- b) Subject to condition 18d) after five days from delivery the Customer is deemed to have accepted the Goods as having been supplied in good condition, and in accordance with the order.
- c) Any claim as to the condition of the Goods not apparent on visual inspection must be communicated in writing to the Company within twelve months of the date of delivery.
- d) Liability of the Company for the defective condition of any of the Goods supplied will not exceed the contract value of the Goods in respect of which the complaint is made.
- e) Notwithstanding condition 18d) no claim may be made in respect of defective condition of the Goods once they have been used by fixing.
- f) In the event that the Goods are not manufactured by the Company then the Company gives no assurance, warranty or guarantee whatsoever that the sale or use of the Goods will not infringe copyright, registered design, design copyright or other intellectual property rights of any other person, firm or company.

19 Each delivery is a separate Contract.

Failure to deliver any part of an order does not invalidate the Contracts for the balance.

20 The Company's conditions over-ride any Conditions of Sale/Purchase of the Customer.

The customer's Conditions are only effective in so far as they do not conflict with the Company's Conditions.

21 Insolvency

If the customer shall become bankrupt or unable to pay its debts as prescribed by Section 123 Insolvency Act 1986 or compound with its creditors or in the event of a resolution being passed or proceedings commenced for the administration or liquidation of the Customer (other than for a voluntary winding up for the purpose of reconstruction or amalgamation) or of a Receiver, Manager, Administrator or Administrator Receiver is appointed of all or any part of its assets or undertaking the Company shall be entitled to cancel the contract in whole or in part by notice in writing without prejudice to any right or remedy accrued or accruing to the Company.

22 Notices

Any notice required to be given by either the Company or the Customer to the other shall be deemed to be properly served if sent by prepaid registered letter posted to its registered office or such other address as may from time to time be notified to the other for this purpose and any notice served shall be deemed to have been served 24 hours after the time of posting and in proving such service it shall be sufficient to prove that the notice was properly addressed and posted.

23 English Law

English Law governs the contract. The English Courts are the property venue for any Actions arising from the Contract.