

# Terms And Conditions

## For C H Morgan & Co Ltd ("The Company")

### 1. APPLICATION

These conditions apply to all contracts for the sale of goods by the Company to any buyer ("the Customer") and prevail over and extinguish all terms and conditions of contract imposed or sought to be imposed by the Customer or implied by trade, custom, practice or course of dealing insofar as such terms and conditions are inconsistent therewith or additional thereto. Purported provisions to the contrary are hereby excluded. No alteration, exclusion or waiver of any of these conditions shall be effective or binding unless made in writing by a Director of the Company.

### 2. QUOTATION AND CONTRACT

- 2.1 A quotation by the Company does not constitute an offer and may be revised or withdrawn at any time prior to the Company's acceptance of the Customer's order.
- 2.2 The Company's acceptance of the Customer's order shall be conditional upon approval of the Customer's credit.
- 2.3 Customer's orders, based on the Company's quotations, are open for acceptance for not more than 28 days from the date of the quotation, unless otherwise stated. Items marked ex stock are quoted subject to their being unsold upon receipt of an order.
- 2.4 A scheduled order calling for delivery to be made at specific times over a certain period, shall constitute unqualified authority for manufacture and shall define the customer's liability. For all such orders, unless otherwise mutually agreed upon, the Company shall have the right to complete the whole of the order within 6 months after receipt.

### 3. PRICES

- 3.1 Prices payable for goods shall be those ruling at the date of despatch. All printed price lists are subject to alteration without notice.
- 3.2 All prices are exclusive of VAT
- 3.3 The Company reserves the right to impose minimum item, plating and invoice charges as advised from time to time.

### 4. TERMS AND PAYMENT

- 4.1 Payment of all invoices shall be made in full not later than the end of the month following that in which delivery was effected, unless otherwise agreed in writing by a Director of the Company.
- 4.2 In the event of default in payment by the Customer the Company reserves the right to demand payment of all monies outstanding and shall be entitled without prejudice to any other right or remedy to suspend all further deliveries or any contract or contracts between the Company and the Customer without notice and to charge interest on any amount outstanding at the rate of 8% per annum above the Base Rate of Midland Bank plc in force at the time when payment was due.

### 5. DELIVERY AND CARRIAGE

- 5.1 While reasonable efforts will be made to meet delivery dates any time or date for delivery mentioned in any quotation, acceptance of order or elsewhere, whether written or verbal, is intended as approximate only and not of contractual effect. Accordingly the Company shall not be liable in damages or otherwise, for any loss, direct or consequential, occasioned by delivery after such estimated time or date, nor shall the Customer have any right to rescind the contract simply on the grounds that delay in delivery has occurred.
- 5.2 Unless otherwise expressly agreed the Company may effect delivery instalments and where delivery is effected by instalments each instalment shall be treated as a separate contract.
- 5.3 Delivery shall be at the Company's premises unless otherwise stipulated or agreed by the Company. Where delivery is to be effected otherwise than at the Company's premises, to a location in mainland Great Britain, no additional charge will be made by the Company provided delivery is effected by the Company's normal means of distribution and the order value exceeds £150. Where delivery is effected elsewhere or by a means of distribution requested by the Customer or where the order value is £150 or less the full cost of delivery will be charged.
- 5.4 If the Customer refuses or fails to take delivery of goods tendered in accordance with the contract, the Company shall be entitled to immediate payment in full for the goods so tendered. All storage and transit costs incurred by the Company as a result of such refusal or failure shall be for the Customer's account.
- 5.5 Goods delivered in the United Kingdom and alleged to be defective must be returned to the Company carriage paid, within 1 month of delivery.

### 6. LIABILITY AND WARRANTY

- 6.1 The Company shall not be liable to the Customer:-
  - (i) For shortages in quantity delivered unless the Customer notifies the Company of any claim for short delivery within 3 days of receipt of the goods.
  - (ii) For damaged to or loss of the goods or any part thereof in transit (whether the goods are carried by the Company's own transport or by a carrier on behalf of the Company) unless the Customer shall notify the Company and the carrier if applicable of any such claim within 3 days of receipt of the goods; in the event of total loss the Customer shall notify the Company and the carrier if applicable within 21 days of the date of the Company's Advice of Consignment or invoice whichever is the earlier.
  - (iii) For defects in the goods caused by any act, neglect or default of the Customer or of any third party.
  - (iv) For other defects in the goods unless notified to the Company within 1 month of receipt of the goods by the customer.

If a complaint is not made to the Company as herein provided then the goods shall be deemed to be in all respects in accordance with the contract and the Customer shall be bound to pay for the same accordingly.

6.2 The Company may at its option make good any shortage or non delivery and/or as appropriate replace or repair any goods found to be damaged or defective.

6.3 The Company's aggregate liability to the Customer whether for negligence breach of contract, misrepresentation or otherwise shall in no circumstances exceed the cost of the defective, damaged or undelivered goods determined by net price invoiced to the Customer in respect of any occurrence or series of occurrences.

6.4 The Company's prices are determined on the basis of the limits of liability set out in this Condition. The Customer may be written notice to the Company request the Company to agree a higher limit of liability provided insurance cover can be obtained therefore, the premiums for such insurance being for the Customer's account.

6.5 Subject to the foregoing all conditions, warranties and representations expressed or implied by statute common law or otherwise in relation to the goods are hereby excluded and the Company shall be under no liability to the Customer for any loss damage or injury direct or indirect resulting from defective material faulty workmanship or otherwise howsoever arising and whether or not caused by the negligence of the Company its employees or agents SAVE THAT the Company shall accept liability for death or personal injury caused by the negligence of the Company.

### 7. RISK

Risk shall pass to the Customer when the goods arrive at the place of delivery if delivered by the Company's own transport or in all other circumstances at the time when the goods or a consignment or other part thereof leave the premises of the Company.

### 8. TITLE RESERVATION

8.1 Title to the goods shall not pass to the Customer until payment in full of the price therefore. Until such payment the Customer shall have possession of the goods as bailee for the Company and shall ensure that the goods are stored in such a way as to enable them to be identified as the property of the Company. The Customer shall arrange for such goods to be fully insured in an amount not less than the price of the goods.

If the Customer is purchasing the goods for resale the Customer may as agent for the Company sell and deliver the goods to a third party in the ordinary course of the Customer's business on condition that all proceeds of such sale are held in trust for the Company. The Customer hereby agrees forthwith on receipt of written notice from the Company so requesting to assign to the Company all rights and claims which the Customer may have against its Customers arising from such sales until payment is made in full as aforesaid.

8.2 The Company reserves the right to repossess any goods in respect of which payment is overdue and thereafter to resell the same and for this purpose the Customer hereby grants an irrevocable right and licence to the Company to enter upon all or any of its premises with or without vehicles during normal business hours. The right shall continue to subsist notwithstanding the termination of the contract for any reason and is without prejudice to the Company's other rights.

### 9. VARIATIONS

Where goods are made to the Customer's pattern or specification, the Company reserves the right to supply within 10% over or under the ordered quantity in fulfilment of the contractual obligation and in such event the Customer shall pay for the quantity actually delivered.

### 10. THIRD PARTY RIGHTS

10.1 The Customer shall indemnify the Company against any and all liabilities, claims and costs incurred by or made against the Company as a direct or indirect result of carrying out any work required to be done on or to the goods in accordance with the requirements or specifications of the Customer involving any infringement or alleged infringement of any rights of any third party.

10.2 The Company's liability to the Customer in the event of goods infringing or being alleged to infringe the rights of any third party shall be subject to the limits specified in Condition 12 hereof. In the event that goods are or may be subject of patent copyright, trade mark of other third party rights the Company shall be obliged to transfer to the Customer any such title as the Company may have.

### 11. SPECIFICATIONS

11.1 All drawings, designs, dimensions and specifications provided to the Customer are approximate only and intended merely to present a general idea of the goods described therein and the Company shall have no liability in respect of any deviation therefrom. The Company accepts no responsibility for any errors, omissions or other defects in any drawings, designs or specifications not prepared by the Company and Company shall be indemnified by the Customer against any and all liabilities and expenses incurred by the Company arising therefrom.

11.2 It shall be the responsibility of the Customer to ensure that the goods shall be suitable for the particular application and for use under the particular conditions for which they are purchased. Product information and publicity material supplied by the Company which indicates the suitability of the goods for particular applications is intended for general guidance only.

### 12. FORCE MAJEURE

12.1 The Company shall not be liable to the Customer for any loss or damage which may be suffered by the Customer as a direct or indirect result of the supply of goods by the Company being prevented, hindered, delayed or rendered uneconomic by reason of circumstances or events beyond the Company's reasonable control including but not limited to Act of God, or riot, strike, lock-out, trade dispute or labour disturbance, accident, breakdown of plant or machinery, fire, flood, storm, difficulty or increased expense in obtaining workmen, material or transport or other circumstances affecting the supply of the goods or of raw materials therefore by the Company's normal source of supply or the manufacture of the goods by the Company's normal means or the delivery of the goods by the Company's normal route or means of delivery.

12.2 If a limited quantity of goods is available to the Company by reason of such circumstances or events the Company may apportion the available quantity between its Customers as its entire discretion.

### 13. INSOLVENCY AND DEFAULT

If the Customers enters into a deed of arrangement or commits an act of bankruptcy or compounds with his creditors or if a receiving order is made against him or if (being a Company) an order is made or a resolution is passed for the winding up of the Customer (otherwise than for the purposes of amalgamation or reconstruction) or if a receiver is appointed of any of the Customer's assets or undertakings or if circumstances arise which entitle the Court or a creditor to appoint a receiver or manager, or which entitle the Court to make a winding up order, or if the Customer takes or suffers any similar or analogous action in consequence of debt or commits any breach of this or any other contract between the Company and the Customer the Company may without prejudice to any of its other rights stop any goods in transit and/or suspend further deliveries and/or determine the rights of the Buyer under Condition 3 hereof and/or by notice in writing to the Customer determine the Contract.

### 14. GENERAL

14.1 Failure by the Company to exercise or enforce any rights hereunder shall not be deemed to be a waiver of any such rights, nor operate so as to bar the exercise or enforcement at any time or times thereafter.

14.2 Any notice hereunder shall be deemed to have been duly given if sent by prepaid first class post, telex or telegraph to the party concerned as its last known address. Notices sent by first class post shall be deemed to have been given 4 days after despatch and notices sent by telex or telegraph shall be deemed to have been given on the date of despatch.

14.3 The contract shall in all respects be governed by and construed in accordance with the laws of England and the parties hereby submit to the jurisdiction of the English Courts.