

W LUCY & CO. LTD., AND ITS UK SUBSIDIARY COMPANIES

STANDARD TERMS AND CONDITIONS OF SALE

1. General –The acceptance of our tender includes the acceptance of the following terms and conditions:-
2. Definitions – For the purpose of these Conditions:-
 - (a) “the goods” means the articles including any packaging thereof to be supplied by us to you pursuant to the order
 - (b) “the order” means a purchase order in respect of goods to be supplied by us to you
3. Validity – Unless previously withdrawn, our tender is open for acceptance within the period stated therein or when no period is so stated, within thirty days only after its date.
4. Acceptance – The acceptance of our tender must be accompanied by sufficient information to enable us to proceed with the order forthwith, otherwise we shall be at liberty to amend the tender prices to cover any increase in cost which has taken place after acceptance. Any samples submitted to you and not returned to our works within one month from date of receipt shall be paid for by you.
5. Packing – Unless otherwise specified in our tender, all packing cases, skids, drums and other packing materials must be returned to our works at your expense and in good condition within one month from date of receipt. If not so returned, they will be charged for.
6. Limits of Contract – Our tender includes only such goods, accessories and work as are specified therein.
7. Drawings etc. – All specifications, drawings and particulars of weight and dimensions submitted with our tender are approximate only, and the descriptions and illustrations contained in our catalogue, price lists and other advertisement matter are intended merely to present a general idea of the goods described therein, and none of these shall form part of the contract. After acceptance of our tender a set of certified outline drawings will be supplied free of charge on request.
8. Inspection and Tests – Our products are carefully inspected and, where practicable, submitted to our standard tests at our works before despatch. If tests other than those specified in our tender or tests in the presence of you or your representative are required, these will be charged for. In the event of any delay on your part in attending such tests or in carrying out any inspection required by you after seven day's notice that we are ready, the tests will proceed in your absence and shall be deemed to have been made in your presence.
9. Performance – We will accept no liability for failure to attain any performance figures quoted by us unless we have specifically guaranteed them, subject to any tolerances specified or agreed to by us, in an agreed sum as liquidated damages.

If the performance figures obtained on any test provided for in the contract are outside the acceptance limits specified therein, you will be entitled to reject the goods.

Before you become entitled to claim liquidated damages or to reject the goods we are to be given reasonable time and opportunity to rectify their performance. If you become entitled to reject goods, we will repay to you any sum paid by you to us on account to the contract price thereof.

You assume responsibility that goods stipulated by you are sufficient and suitable for your purpose save in so far as your stipulations are in accordance with our advice.

10. Liability for Delay – Any times quoted for despatch or delivery are to date from receipt by us of a written order to proceed and of all necessary information and drawings to enable us to put the work in hand. The time for despatch or delivery shall be extended by a reasonable period if delay in despatch or delivery is caused by instructions or lack of instructions from you or by industrial dispute or by any cause beyond our reasonable control.
11. Variations – In the event of variation or suspension of work by your instructions or lack of instructions the contract price shall be adjusted accordingly.

No addition to or variation of or exclusion or attempted exclusion of these Conditions shall be binding upon us unless specifically agreed to in writing and signed by one of our authorised personnel.
12. Delivery – Unless otherwise specified in our tender, the price quoted includes delivery by any method or transport at our option.

Unless otherwise specified, we shall not be responsible for offloading.
13. Loss or Damage in Transit –When the price quoted includes delivery other than at our works, we will repair or at our option, replace free of charge goods lost or damaged in transit; provided that we are given written notification of such loss or damage, within such time as will enable us to comply with the carriers conditions of carriage as affecting loss or damage in transit or, where delivery is made by our own transport, within a reasonable time after receipt of the Advice Note.
14. Terms of Payment – Unless otherwise agreed, payment in full shall be due for goods on notification by us that they are ready for despatch.
15. Storage – If we do not receive forwarding instructions sufficient to enable us to despatch the goods within 14 days after the date of notification that they are ready for despatch, you shall take delivery or arrange for storage. If you do not take delivery or arrange for storage, we shall be entitled to arrange storage either at our own works or elsewhere on your behalf and all charges for storage, for insurance and for demurrage shall be payable by you.
16. Defects after Delivery –We will make good, by repair or the supply of a replacement, defects which under proper use, appear in the goods within a period of twelve calendar months after the goods have been delivered and arise solely from faulty design (other than a design made, furnished or specified by you for which we have disclaimed responsibility in writing) materials or workmanship, provided always that defective parts have been returned to us if we shall have so required. We shall refund the cost of carriage on such returned parts and the repaired or new parts will be delivered by us free of charge as provided in Clause 12 (Delivery).

Our liability under this clause shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of the goods, and save as provided in this clause we shall not be under any liability, whether in contract, tort or otherwise, in respects of defects in goods delivered or for any injury (other than personal injury caused by our negligence as defined in Section 1 of the Unfair Contract Terms Act 1977), damage or loss resulting from such defects or from any work done in connection therewith.

17. Patents – We will indemnify you against any claim for infringement of Letters, Patent, Registered Design, Trade mark or Copyright (published at the date of the contract) by the use or sale of any article or materials supplied by us to you and against all costs and damages which you may incur in any action for such infringement or for which you may become liable in any such action. Provided always that this indemnity shall not apply to any infringement which is due to our having followed a design or instruction furnished or given by you or to the use of such articles or material in a manner or for a purpose or in a foreign country not specified by or disclosed to us, or to any infringement which is due to the use of such article or material in association or combination with any other article or material not supplied by us.
And provided also that this indemnity is conditional on your giving us at the earliest possible time notice in writing of any claim made or action threatened or brought against you and on your permitting us at our own expense to conduct any litigation that may ensue and all negotiations for a settlement of the claim. You on your part warrant that any design or instructions furnished or given by you shall not be such as will cause us to infringe any Letters patent, Registered Design, Trade Mark or Copyright in the execution of your order.
18. Limitation on Contractors Liability Whilst on Site – If we, our agents or sub-contractors are on site for the purposes of the contract then, notwithstanding the provisions of Clause 16 we will indemnify you against direct damage or injury to your property or person or that of others occurring while we are working on site to the extent caused by the negligence of ourselves, our sub-contractors or agents, but not otherwise, by making good such damage to property or compensating personal injury. Provided that:
 - (a) our total liability for damage to your property (including damage caused by our breach of contract, tort or breach of statutory duty) shall not exceed £1.000.000 or the contract price whichever sum is the greater, and
 - (b) we shall not be liable to you for any loss of profit or of contracts or, save as aforesaid, for any loss or damage of any kind whatsoever and whether caused by our breach of contract, tort, breach of statutory duty or otherwise howsoever.
19. Final Certificate – Upon expiry of the defects liability period specified in Clause 16, we shall be under no further obligation or liability to you either under the contract or in tort (including but not limited to negligence), unless within 14 days thereafter you shall have given us written notice of any matter in respect of which we remain obliged or liable to you. You shall issue to us a final certificate to the effect that we have fulfilled all our obligations and liabilities to you immediately upon expiry of the said period of 14 days or, in the event that you have given us notice as aforesaid which we have not disputed, immediately upon our having dealt with the matter(s) specified therein.
20. Arbitration – If at any time any question, dispute or difference whatsoever shall arise between you and ourselves upon, in relation to, or in connection with the contract, either of us may give to the other notice in writing of the existence of such question, dispute or difference and the same shall be referred to the arbitration of a person to be mutually agreed upon, or failing agreement within 30 days of receipt of such notice, of some person appointed by the President of the time being of the Chartered Institute of Arbitrators.
21. Legal Construction – Unless otherwise agreed in writing the contract shall in all respects be construed and operated as an English contract and in conformity with English Law. We both agree to submit to the non-exclusive jurisdiction of the English Courts.
22. Statutory and other Regulations – If the cost of performing our obligations under the contract shall be increased or reduced by reason of the making or amendment after the date of tender of any law or of any order, regulation, or bye-law having the force of law that shall affect the performance of our obligations under the contract, the amount of such increase or reduction shall be added to or deducted from the contract price as the case may be.
23. Force Majeure – We reserve the right to suspend or cancel delivery of goods or any part of them if we are prevented from performing our obligations under the contract by any cause beyond our control and we shall not be liable for any direct or indirect damage or loss thereby caused to you.
24. Assignment – Neither of us may assign the order or obligations in respect of the same unless specifically agreed to in writing and signed by an authorised personnel of the other.
25. Termination – Without prejudice to any other rights or remedies to which we may be entitled, we may terminate our obligation to comply with the order forthwith and without liability in the event that:
 - (a) You make any arrangement or composition with your creditors or commit an act of bankruptcy or if a receiving order is made against you or an order is made or a resolution is passed for your winding up (other than solely for the purpose of amalgamation or reconstruction previously approved in writing by us) or if you have a Receiver appointed of the whole or any part of your assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a Receiver or Manger or which entitles the Court to make a winding up order or if you take or suffer any similar or analogous action in consequence of debt or:
 - (b) Your commit any breach of these Conditions or are in breach of any other contract you have with us.
26. Waiver and Severability – Failure on our part to exercise or enforce any rights conferred by these Conditions shall not be deemed to be a waiver of any such right or operate so as to prevent the exercise or enforcement thereof at any time thereafter. In the event that any one or more of these Conditions herein shall be invalid, illegal or unenforceable in any respect the validity, legality and enforceability of the remaining conditions contained herein shall not in any way be affected or impaired thereby.
27. Interest – If any invoice is not paid in full by the due date we shall be entitled to charge interest on the amount outstanding from the day following the due date. The rate of interest charged shall be 2% above HSBC Bank plc's Base Rate for the time being. Such interest shall be compound and shall be computed at monthly intervals.
28. Retention of Title – The ownership of the goods specified in any order/invoice shall remain our property until full payment for the goods specified in the order/invoice has been received by us and further that all other sums due and owing to us by you have been discharged.