

STANDARD TERMS AND CONDITIONS OF SALE OF 2T FRUITTI.

1. DEFINITIONS

- (a) "Buyer" means the person, firm or company from whom an order is accepted by the seller.
- (b) "Seller" means 2t fruitti.
- (c) "Goods" means the articles of things or any of them described in the Order and supplied under the terms of the contract.
- (d) "Order" means the order placed by the buyer for the supply of the goods.
- (e) "Conditions" means the standard Terms and Conditions of sale.
- (f) "Contract" means the contract for the sale of the goods by the seller governed by these Conditions.

2. THE AGREEMENT

- (a) The Contract and all agreements from time to time entered into between the seller and the buyer which provide for the sale of any goods by the seller to the buyer shall be deemed to incorporate these Conditions which represent the complete Agreement of the seller and Buyer with regard to the goods except as may be otherwise specifically agreed in writing by the seller. These Conditions shall override any terms and Conditions stipulated, incorporated, or referred to by the buyer in any Order, correspondence, negotiations or in any other way.
- (b) No Order is binding on the Seller until accepted by the Seller in writing by the issue of the Seller's official Order confirmation notwithstanding any act or statement of the Seller or its agents or representatives prior to such issue.
- (c) Without prejudice to the foregoing acceptance of delivery of the Goods by the buyer shall be deemed to constitute acceptance of these Conditions to the exclusion of all other terms and conditions whatsoever.
- (d) If any term of condition herein (or part thereof) is held to be invalid for any reason by any Court or competent authority, it is to that extent to be deemed removed from the Contract without prejudice to the validity or effectiveness of the remaining terms and Conditions hereof.
- (e) The rights of the Seller shall not be prejudiced or restricted by any indulgence or forbearance extended to the Buyer and no waiver of any breach shall operate as a waiver of any subsequent breach.
- (f) If the Buyer (being a Company) has a petition presented for its winding-up or passes a resolution for voluntary winding-up otherwise than for the purpose of a bona fide amalgamation or reconstruction or compounds with its creditors or has an administrator receiver appointed over all or any part of its assets or (being an individual) becomes bankrupt or insolvent or enters into any arrangement with his creditors or commits a material or serious breach of this Agreement (and in the case of such a breach being remediable fails to remedy it within 7 days of receiving notice to do so), he will be deemed to have repudiated the contract.

3. CANCELLATION

No cancellation by the Buyer is permitted except where expressly agreed by the Seller in writing.

4. PRICES

- (a) The price for the Goods is only an estimate and the actual billing price may vary. Billing prices are based on the price of gold and/or silver on the |London Stock Exchange on the date of Goods are shipped by the Seller. The Buyer agrees to pay for the Goods on these terms. Any exceptions to these terms must be noted in writing on the front page of the order form.

- (b) When goods are purchased and invoiced in £ sterling, the buyer must pay for the Goods in that currency. If payment for invoices is received in foreign currency, the Seller may charge the difference resulting from currency exchange rates to the buyer.
- (c) The Buyer shall not be entitled to make any deduction from the price of the Goods in respect of any alleged rights to set-off or counter-claim unless both the validity and the amounts thereof have been expressly acknowledged and admitted by the Seller in writing.
- (d) The Seller reserves the right at any time prior to delivery of the Goods to adjust the price to take account of any increase in the cost of raw materials (labours or services).

5. PAYMENT TERMS

- (a) Unless otherwise agreed or specified by the Seller in writing, payment for the Goods shall be due in full together with any Value Added Tax chargeable 30 days after the date of the invoices for the Goods in question.
- (b) The Seller's invoice may be issued at any time after the Goods are ready for despatch.
- (c) Time for payment of the price shall be entitled to charge interest on overdue amounts due under the Contract from the due date for payment thereof until payment such interest to accrue from day to day and such interest to accrue both before and after judgement and to be payable on demand at the rate of three per cent (3)% per month above the base rate for the time being of Royal Bank of Scotland plc and proportionately for any lesser period.
- (d) The Seller reserves the right to suspend further deliveries, to demand security for payment and to cancel any allowance of further credit in the event of:
 - (i) Any payments under the Contract (or any other Contract with the Buyer) not being made when due, or
 - (ii) The Seller in its sole discretion at any time considering that the financial condition of the Buyer has ceased to justify any such terms being permitted.
- (e) The Seller will not accept bills of exchange or post dated cheques unless previously agreed.
- (f) In the event of the Seller agreeing to accept the return of the Goods there shall be credited to the buyer only the value of the metal and not the full price of the Goods.

6. DELIVERY AND RISK

- (a) All quotations and contracts are for delivery of the Goods ex the Seller's works and delivery of the Goods to a carrier shall constitute delivery thereof to the buyer. Any delivery date is approximate only and is not a contractual commitment.
- (b) The Seller reserves the right to make delivery by instalments.
- (c) Risk in the Goods shall pass to the Buyer on delivery of the Goods to the carrier.
- (d) When delivery is to be made by instalments or any part of any instalment not being delivered in accordance with the Contract.
- (e) The Buyer shall not be entitled to reject the Goods by reason only of short delivery thereof.
- (f) Deviations in quantity of the Goods delivered from that stated in the Contract shall not give the Buyer any right to reject the Goods or to claim damages and the Buyer shall be obliged to accept and pay at the Contract rate for the quantity of the Goods delivered.

7. PASSING OF PROPERTY AND RETENTION OF TITLE

- (a) Notwithstanding delivery the property in the Goods shall not pass to the Buyer until the Buyer has paid in full the price of the Goods.
- (b) Furthermore the property in the Goods shall not pass to the Buyer unless and until the full price of any other delivered Goods the subject of any other business transaction between the Buyer and the Seller has been paid. Such price and the price of the Goods shall hereinafter together be called "the value" and shall where the context so permits include in addition thereto any costs of possession incurred pursuant to paragraph (iv) of clause (c) hereof.

(c) Until the value has been received by the Seller the Buyer will hold the Goods as bailee on behalf of the Seller and the Buyer hereby acknowledges that there shall accordingly subsist a fiduciary relationship in respect of the Goods between the Buyer and the Seller. Subject thereto:

(i) The Buyer will store the Goods on its premises separately from its own Goods or those of any other person in such a way that they can be readily identified as the Goods of the Seller;

(ii) Until payment as aforesaid the Buyer will take all necessary measures for the protection of the Goods including the assurance there of against all usual risks with an insurance company approved by the Seller for the full replacement value of the Goods;

(iii) The Buyer is authorised by the Seller to agree to sell on the Goods at a price which shall nevertheless be no less than the purchase price of the Goods hereunder subject to the express condition that the entire proceeds thereof are held in trust for the Seller and are not mingled with other monies or paid into any overdrawn bank account and shall be at all times identifiable as the Seller's money. The Buyer shall keep records (to be produced to the Seller whenever required) of the name and address of any such sub-purchaser and the date and contract price of each delivery;

(iv) The Seller may, at any time if payment is overdue in whole or in part without prejudice to any other right arising pursuant to or consequent upon this agreement, for the purpose of recovery of the Goods, enter upon any premises where the Goods are stored or where they are reasonably thought to be stored and may repossess the same. All costs and expenses reasonably incurred by the Seller in connection with such recovery shall be paid by the Buyer;

(v) It is declared for the avoidance of doubt with prejudice to the generality of the foregoing that the Seller may recover the Goods and payments shall become due if:

(a) The Buyer does or fails to do anything which would entitle an Administrator or Administrative Receiver to take possession of any of its assets or which would entitle any person to present a petition to wind up the Buyer and/or

(b) The Buyer passes any resolution to wind itself up or publishes a notice convening a meeting of its creditors pursuant to section 98 of the insolvency Act 1986 or any statutory modification or replacement thereof, and/or

(c) The Buyer if an individual has a bankruptcy Order made against it or enters into any arrangement for the benefit of its creditors generally.

(d) (i) The Buyer may admix the Goods with other property not belonging to the Seller. However if

Goods the property of the Seller are admixed with Goods the property of the Buyer or are processed with or incorporated therein the product thereof shall become and/or shall be deemed to be the sole and exclusive property of the Seller. If Goods the property of the Seller are admixed with Goods the property of any person other than the Buyer or reprocessed with or incorporated therein the product thereof shall become or shall be deemed to be owned in common with that other person;

(ii) The provisions of § (iii) of Clause (c) hereof shall apply mutatis mutandis to the proceeds of sale of any product referred to in (i) of this clause.

(e) All en bloc sales or large scale reduced sales are not permitted.

(f) Each of the preceding Clauses and sub-paragraphs shall be construed and shall take effect separately and in the event of one or more such Clauses or sub-paragraphs being held ineffective this shall not affect the validity of the remaining Clauses or sub-paragraphs.

(g) No Goods can be returned without the express prior approval of the seller. With the exception of Goods damaged in transit all returned Goods are subject to an 18% return fee to cover prepaid brokerage fees and non refundable customs duties as well as shipping and insurance charges. Any Goods which are returned and which are not authorised by the seller for return

are subject to an additional 20% return fee for refinishing and restocking. The same applies to Goods accepted by the Seller to diminish the Buyer's outstanding account.

8. INSPECTION/SHORTAGES

- (a) The Buyer is under a duty wherever possible to inspect the Goods on delivery or on collection as the case may be.
- (b) Where the goods cannot be examined the carriers not or such other note as appropriate shall be marked "not examined".
- (c) The Seller shall be under no liability for any defects or shortages that would be apparent on careful inspection if the terms of this clause are not complied with and in any event will be under no liability if a written complaint is not delivered to the Seller within 7 days of delivery detailing the alleged defect or shortage.
- (d) In all cases where defects or shortages are complained of the Seller shall be under no liability in respect thereof unless an opportunity to inspect the Goods is given to the Seller before any use or made thereof or any alteration or modification is made thereto by the Buyer.

9. LIABILITY

- (a) Nothing in Clause 9 shall be deemed to exclude or restrict the Seller's liability for death or personal injury resulting from negligence.
- (b) Each of the sub-clauses in Clause 9 is to be treated as separate and independent.
- (c) The Seller warrants that it has the title of Goods or will have such title at the time when property in the Goods is to pass to the Buyer under the Contract and warrants that in all other respects it is able to satisfy its obligations to the Buyer under Section 12 of the Sale of Goods Act 1979.
- (d) Save as expressly stated herein all warranties and conditions whether express or implied by statute (including in particular Sections 13, 14 and 15 of the Sale of Goods Act 1979), usage, trade custom or otherwise relating to the quality or nature of the Goods or their life or wear or fitness for any particular purpose or use under any specific conditions are hereby expressly excluded.
- (e) The Seller shall not be liable for any consequential or indirect loss suffered by the Buyer whether this loss arises from breach of a duty in contract or tort or in any other way (including loss arising from the Seller's negligence). Non exhaustive illustrations of consequential or indirect loss would be
 - Loss of profits
 - Loss of contracts
 - Damage to property of the Buyer or anyone else, and
 - Personal injury to the Buyer or anyone else (except so far as such injury is attributable to the Seller's negligence).
- (f) The Seller's total liability for all claims arising out of any one Contract shall not exceed the price of undelivered Goods or Goods accepted back by the Seller from under the terms hereof.

10. FORCE MAJEURE

- (a) The Seller shall have no liability under the Contract in respect of any failure or delay in fulfilling any of the Seller's obligations to the extent that fulfilment thereof is prevented, frustrated, impeded or delayed as a consequence of any force majeure or any occurrence whatsoever beyond the control of the Seller including without prejudice to the generality of the foregoing:
 - (i) Compliance with any order, regulation, request of control of any national or local authority, governmental department or other competent authority of any country whether or not legally enforceable; or

- (ii) Any delays in or cancellations of deliveries or provision of services by third parties or shortages of goods, materials or parts: or
 - (iii) Any strikes, lock-outs or trade disputes whether involving the Seller's employees or others, fire, explosion, accident, calamity or civil disturbance, action of elements, national calamity or Act of God; or
 - (iv) Failure in whole (or in part) of any power or energy supply.
- (b) Whilst the Seller undertakes to make reasonable endeavours within its power to overcome difficulties arising in connection with any of the events or circumstances referred to in sub-clause (a) of this condition, the Seller reserves the right to terminate the Contract with the Buyer without incurring any liability whatsoever and in particular the Seller shall not be obliged to purchase goods from third parties to make good any such difficulty.

11. CONFIDENTIALITY

The Buyer shall during and after the termination of the Contract keep confidential all information acquired from the Seller or which becomes known to the Buyer in connection with the Contract.

12. ASSIGNMENT

The Buyer shall not assign the Contract without the written agreement of the Seller.

13. COPYRIGHT

The Seller retains copyright in all drawings samples models and similar articles and these may not be copied reproduced or otherwise utilised. Infringements will give rise to a claim for damages. The Seller shall have no liability under the Contract in respect of any intellectual property passed by a supplier to the Seller and onto the Buyer.

14. NOTICES

Any notice to be given hereunder shall be in writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its address specified in the Contract or such other address as that party may from time to time notify to the other in writing and shall be deemed to have been served, if sent by post, when it would have been delivered in the ordinary course of the post.

15. HEADINGS

The headings of these Conditions are for convenience only and shall have no effect on the interpretation thereof.

16. GOVERNING LAW AND JURISDICTION

The Contract shall be governed by and construed in accordance with English law and all disputes arising in connection with the Contract shall be submitted to the jurisdiction of the English Courts.