

## CONDITIONS OF SALE

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### 1 Preliminary

(a) In these conditions:

- (i) "the Seller" means Davies Harvey & Murrell Limited, their ultimate holding company, and any subsidiary.
- (ii) "Goods" means any paper, board or any other goods and services agreed to be sold by the Seller under any particular Contract.
- (iii) "Contract" means any contract for the sale of any paper, board or other goods or services by the Seller to any person, including any firm or company ("the Buyer").

(b) All Contracts shall be governed by these Conditions and no alteration to these Conditions in respect of any Contract shall be binding on the Seller unless it is in writing and signed by a duly authorised representative of the Seller.

### 2 Paper and Board Trade Customs

Except where inconsistent with these Conditions all Contracts or the sale of paper and board shall be subject to the British Paper and Board Trade Customs for the time being in force, which are obtainable from the National Association of Paper Merchants. This Condition does not apply to any Contract for the sale of any Goods other than paper and board.

### 3 Payment Terms

Payment for Goods shall be due on or before the last day of the month following the month during which the invoice for such Goods is dispatched. Where payment is not received by the due date the Seller reserves the right to charge interest on the sum outstanding calculated at the rate of two and one half per cent above the base lending rate of Barclays Bank PLC from time to time accruing from day to day (but not including) the due date until (and including) the actual date of payment. Notwithstanding anything herein the sum outstanding shall become immediately payable if the buyer makes default in payment of any sum due under any other Contracts subsisting between the Buyer and the Seller.

### 4 Quotations

All quotations and tenders are given by the Seller on condition that they do not constitute any offer of a Contract and that the Seller shall not be bound until he has communicated his acceptance of the Buyer's order and these Conditions. These Conditions shall prevail unless the contrary has been agreed in writing by the Seller.

### 5 Representations

(a) The Seller shall not be bound by any oral warranty made or representations given or purported to be given or made on its behalf unless it is confirmed in writing and signed by or on behalf of the Seller.

(b) No guarantee or warranty is given that Goods of any description are fit for the Buyer's purpose, and the Buyer must satisfy itself prior to entering into any Contract of their fitness for any purpose for which they are intended to be used.

### 6 Price

(a) All prices are subject to market fluctuations. Accordingly, the price to be paid by the Buyer for any Goods shall be the Seller's price applicable at the date of despatch of such Goods.

(b) All prices are exclusive of Value Added Tax which shall be payable to the Buyer at the rate applicable from time to time.

(c) Payment shall be due and the Seller shall be entitled to sue therefore whether or not property in Goods has passed by virtue of Condition 8.

### 7 Termination

The Seller shall have the right (without affecting any other claim, or remedy against the Buyer) by notice in writing to the Buyer to terminate with immediate effect any Contract or to suspend delivery in any of the following events:

- (a) if any sum owing by the Buyer to the Seller is overdue, whether under the same or any other Contract;
- (b) if the Buyer is in breach of any term of the same or any other Contract;
- (c) if the Buyer decides to enter into any composition or arrangement with or for the benefit of its creditors; or commits any act of bankruptcy; or receives any notice that a petition to wind it up is to be or has been presented or any notice of the convening of any meeting of the Buyer at which a resolution is to be proposed to wind up the Buyer (save for the purpose of re-organisation or reconstruction) or any notice that a Receiver or Manager is to be or has been appointed of its assets.

### 8 Delivery, Property and Risk

(a) Subject to any agreement to the contrary in the Contract the Buyer shall be bound to accept delivery of



Telephone



020 7732 9988

Fax

020 7732 5415

Goods at its own premises when they are ready for delivery by the Seller.

(b) The Seller shall not incur any liability or obligation to the Buyer in respect of any failure to deliver or delay in delivery.

(c) The risk in Goods shall pass to the Buyer when they are delivered to the Buyer or to some other person on its behalf in accordance with its instructions

(d) Property in Goods will pass to the Buyer only when payment in full for such Goods (including any interest payable pursuant to Condition 3) has been received by the Seller.

## 9 Supplemental Property Provisions

(a) Until the occurrence of any of the events specified in Condition 7 the Buyer shall be entitled to:

(i) subject Goods to any process, addition or treatment in the ordinary course of its business, provided that property in such Goods as so processed, added to or treated ("admixed Goods") shall remain with the Seller until all sums owing from the Buyer to the Seller in respect of such Goods shall have been paid or until there has been a bona fide sale for value to a third party, whichever shall first occur; and

(ii) sell Goods and any admixed Goods and pass the property in the same to third parties in the normal course of business.

(b) In the event of any sale or disposition of Goods or any admixed Goods by the Buyer before payment for such Goods or admixed Goods has been made to the Seller, the Seller shall be entitled by notice in writing to the Buyer to require that the Buyer shall hold on trust for the Seller:

(i) (if such Goods have not been subjected to any process, mixed with or incorporated in or transformed into other Goods) the whole of the proceeds of sale or disposition; and/or

(ii) (if such Goods have been subjected to any process, mixed with or incorporated in or transformed into other Goods) the proportion of the proceeds of the sale which is equal to the price of such Goods under the Contract for their sale to the Buyer until payment in full for such Goods has been received by the Seller.

(c) Following the happening of any event specified in Condition 7:

(i) the Buyer shall thereafter have no authority to subject the Seller's Goods to any process, addition or treatment and/or to sell any of the Seller's Goods or admixed Goods;

(ii) the Buyer shall be obliged to pay the Seller all proceeds of sale received by the Buyer from sale of Goods; or the proportion of the proceeds of sale of admixed Goods, described in Condition 9(b)(ii); and

(iii) the Seller by its employees or agents shall be entitled to enter upon or into any land, buildings or vehicles of the Buyer to re-take possession of any Goods and any admixed Goods which remain its property.

(d) The Buyer shall notify the Seller forthwith of the happening of any of the events referred to in Condition 7 (c).

## 10 Warranty and Claims

(a) All conditions and warranties whether express or implied by statute or otherwise shall be construed subject to these Conditions and insofar as they are inconsistent therewith shall be excluded.

(b) The Seller warrants only that Goods are reasonably free from defects in material or workmanship on their delivery and, if stored under conditions which are reasonable, will remain so for a period of one year from the date of delivery (the "Warranty Period").

(c) It shall be the duty of the Buyer, before using the Goods and before parting with possession of the same, to test and examine such Goods in every respect.

(d) Any complaint of short delivery must be notified to the Seller within 24 hours of receipt of Goods and confirmed in writing at the time by the Buyer to the Seller. Any complaint of failure to deliver Goods invoiced must be so notified and confirmed within ten days of the date of the invoice.

(e) Claims in respect of any alleged damage to or defect in Goods delivered must:

(i) if the defect would have been revealed by normal examination of the outturn sheets, or by reasonable examination of such Goods on arrival, be made in writing within 14 days after delivery, or

(ii) if related to the transport of such Goods, be made within such time as will enable the Seller to comply with the time limits and procedures of any carriers by whom such Goods were transported, or

(iii) otherwise be made within the Warranty Period and within 14 days of any such damage or defect becoming apparent.

(f) If the Buyer shall make any complaint within the time stipulated the Seller shall, after it has had a reasonable time to investigate the same and examine the Goods in dispute and if the Goods are defective, at its option:

(i) replace the Goods, or

(ii) accept the return of the Goods and credit the Buyer with the price thereof, or

(iii) make to the Buyer an allowance representing the difference between the value of the Goods at the time of the complaint by the Buyer and the value they would have had if they had not been so defective (providing that the Buyer shall still be liable to pay the balance not in dispute according to normal terms).

(g) Other than as permitted by the Seller pursuant to Condition 10(f) Goods shall not be returned by the Buyer to the Seller without prior agreement, when the Seller reserves the right to charge 20 per cent of the invoice value of the Goods for handling costs.

(h) IDEM paper and/or board is not suitable for use and should not be used in conjunction with similar carbonless copy paper or board of alternative manufacture. Accordingly, if IDEM paper and/or board is used in conjunction with carbonless papers or boards of alternative manufacture all statutory and other warranties or conditions express or implied as to the quality of fitness of IDEM paper and/or board shall be and hereby are excluded and we shall have no liability for any loss or damage howsoever arising or for any indirect or consequential loss of profits arising from such use.

## 11 Limitations of Sellers Liability

Save for liability for death or personal injury arising the Seller's negligence (which is not excluded), the Seller's obligation to replace Goods, or to provide credit, or to make any allowance, as set out in Condition 10 shall constitute the full extent of the Seller's liability in respect of any loss or damage sustained by the Buyer whether caused by the breach of any Contract or by misrepresentation or by the negligence of the Seller, its employees or agents, or arising from any other cause by the breach of any other cause whatsoever and the Seller shall not be liable for any consequential, economic, direct or indirect loss suffered by the Buyer arising therefrom.

## 12 Force Majeure, etc.

If the Seller is hindered or prevented from performing any Contract owing to any Act of God, war, strike, government regulation or order, lock-out, fire, flood, drought, tempest, or any other cause (whether or not of a like nature) beyond the control of the Seller or owing to any inability by the Seller to procure materials or articles required for the performance of the Contract the Seller may at its sole option delay the performance of or cancel such Contract and the Seller shall not be held responsible for such delay or cancellation or any inability to deliver caused by any such contingency.

### **13 Waiver**

No failure, delay or indulgence by the Seller to enforce any of the terms of the Contract shall operate as a waiver thereof or shall prejudice, affect or restrict the rights and powers of the Seller thereunder, nor shall any waiver or any breach or default of or under any of the provisions of any Contract operate as a waiver of any other breach or fault.

### **14 Proper Law**

Every Contract shall be subject to English Law. The Buyer submits to the non-exclusive jurisdiction of the English Courts for the determination of any question or dispute, howsoever arising, between the Seller and the Buyer.

### **15 Headings**

The headings contained in these Conditions are for convenience only and shall not affect the interpretation hereof.

Davies Harvey & Murrell Ltd, Amended: September 2001

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