

## TERMS AND CONDITIONS OF SALE

### 1. GENERAL

- 1.1 These Conditions shall form *the entirety* of every contract of sales entered into by Gordian Strapping Limited ("the Seller") and any variation or exclusion made before or after the date of any order for Goods shall be of no effect unless expressly accepted in writing by a director of the Seller as part of the contract.
- 1.2 By making an order subsequent to receipt of these Conditions the Buyer acknowledges that these Conditions shall prevail over any qualification or condition purported to be imposed by the Buyer or any previous course of dealing between the Seller and the Buyer.
- 1.3 *The Seller will make no arrangements for the supply until a signed order form is received from the Buyer and for the purpose of this clause the Seller shall accept delivery of a signed order from either in the ordinary course of post or by fax.*
- 1.4 Any representation or variation or warranties made or given by anyone on the Seller's behalf prior to acceptance of an order and not contained in the Seller's written quotation or order acknowledgement are hereby expressly excluded.
- 1.5 No cancellation of any order will be effective unless and until accepted in writing by the Seller. No cancellation whatsoever will be accepted of orders for Goods to special requirements or not normally stocked by the Seller and the Buyer will remain liable for such Goods.

### 2. PRICES

- 2.1 Unless otherwise agreed in writing by the Seller all Goods will be charged at prices current at the date of despatch.
- 2.2 Such prices shall be binding on both parties and shall not give either party any option of cancellation.
- 2.3 Prices may be amended on *giving reasonable notice to the Buyer* to reflect fluctuation of costs between the date or order and date of delivery.
- 2.4 All prices shall be in pounds sterling unless otherwise specified and all payments must be made in pounds sterling unless otherwise expressly agreed.
- 2.5 *The Buyer shall pay VAT on the price of the Goods at the rate in force at the time when the Goods have been delivered to the Buyer.*

### 3. TITLE AND RISK

- 3.1 The risk in the Goods shall pass to the Buyer:  
(i) when the Goods are delivered at the destination specified in an order.  
(ii) if the Goods are appropriated to the Buyer but kept at the Seller's premises upon collection of the Goods by the Buyer.
- 3.2 Notwithstanding sub-clause 3.1 above absolute property in and title to the Goods shall remain vested in the Seller and the Buyer shall keep the Goods as bailee and trustee for the Seller (returning the same to the Seller upon request) until the price thereof has been paid in full together with any interest and other sums due.
- 3.3 Until title to the Goods shall pass the Buyer shall store and label the Goods in such a way that they can be identified as the Seller's goods.
- 3.4 Until title to the Goods shall pass the Buyer shall at the request of the Seller deliver up the Goods to the Seller and the Seller shall in its absolute discretion recover from the Buyer those Goods being in the Buyer's possession and for the purpose of recovering the Seller's servants and agents may enter upon land or buildings upon or in which the Goods are situated.
- 3.5 The Buyer's rights to use the Goods or to sell them prior to full payment shall automatically terminate if a Receiver is appointed over any of the assets or the undertaking or composition with its creditors generally or commits an act of bankruptcy or allows execution or distress to be levied against its goods in the event of a Receiver or Liquidator or the Buyer being appointed, such Receiver or Liquidator shall pay into a separate bank account any sums received from third parties in respect of sales to them of Goods by the Buyer up to the amount of any indebtedness of the Buyer to the Seller for the sole benefit of the Seller.

### 4. DELIVERY

- 4.1 The Seller will make every effort to maintain quoted, delivery dates but unless any quoted delivery date is stated in writing by the Buyer to be a binding condition then such delivery dates shall not form part of any agreement and the Seller shall not be liable for failure to deliver the Goods by such dates.
- 4.2 *The Seller does not undertake to deliver or collect any Goods over roads or ground which are in the Seller's discretion considered to be unsuitable. If a vehicle used for performing the Seller's contract with any Buyer delivers or collects Goods to or from a place situated off the public highway the Buyer is to be solely responsible for any damage or accident and he is to indemnify the Seller fully in respect thereof.*
- 4.3 The Seller will not be liable in any circumstances for the consequences of any delay in delivery or failure to deliver *provided Goods are delivered in a reasonable time* or if such delay or failure is due to act of God, fire, exceptional weather conditions, industrial action, hostilities, shortage of materials, power or other supplies, late delivery or performance or non-delivery by suppliers or sub-contractors, governmental order or intervention, export restrictions or any other cause whatsoever beyond the Seller's control or of any unexpected or exceptional nature.
- 4.4 No delay shall entitle the Buyer to reject any delivery or any further instalment or part of the order or any other order from the Buyer's or to repudiate the contract or the order.
- 4.5 (a) *The Seller shall be entitled to assume that installation of the Goods can take place immediately upon delivery of the same.*  
(b) The Buyer will indemnify the Seller for all reasonable storage and other costs incurred by the Seller as a result of the Buyer's failure or inability to accept delivery of the Goods provided that delivery is made at the delivery address during normal business hours or at a time previously agreed.
- 4.6 *The Buyer having signed a note certifying that the Goods are in working order on installation the Seller will accept no liability for any damages shortages or defective Goods other than notified on installation in writing to the Seller and carrier within three working days of delivery otherwise the Seller presumes acceptance of the Goods as delivered.*
- 4.7 Non-delivery of Goods must be notified in writing to the Seller within twenty-one days of the assumed date of despatch or within five days of the date of the invoice relating to the Goods.
- 4.8 The Seller shall not be liable for any further claims for direct, indirect or consequential damage or loss other than replacing the Goods or giving credit to the value of the Goods.

### 5. TERMS OF PAYMENT

- 5.1 The payment on credit accounts shall be strictly payable in full thirty days after the end of the month in which the Goods are invoiced unless otherwise previously agreed in writing by the Seller.
- 5.2 *Payment is deemed to be made on clearance of the Buyer's cheque through the Seller's Bankers or upon notification by the Seller's Bankers of the receipt of a credit transfer.*
- 5.3 Where deliveries are spread over a period of time each consignment will be invoiced as despatched and each month's invoices will be treated as a separate account and be payable as in 5.1 above accordingly.
- 5.4 Failure to pay for any Goods or for any delivery shall entitle the Seller to suspend further deliveries and work both on the same order or any other order without prejudice to any other right the Seller may have.
- 5.5 The Seller reserves the right to charge interest on overdue accounts at the rate of 2% per month.
- 5.6 The Buyer shall not make any deduction from the invoice price of Goods on account of any set-off or claim unless agreed by a *director* of the Seller in writing.

### 6. LIABILITY

The obligations of the Seller in respect of any liability to the Buyer for loss or damage in respect of the Goods or other work shall not in any event exceed the sum of the *insurance cover* whether such liability arises in contract or in tort or otherwise howsoever subject to any exclusion prohibited by any rule of law.