

Terms and Conditions of Sale

DEFINITIONS

These Terms and Conditions are the only Terms and Conditions on which the Company trades. No other Terms and Conditions, whether written or oral, are capable of incorporation herein unless by prior agreement in writing.

1. In these conditions the following terms shall have the following meanings
'Company' means VALEN FITTINGS LTD
'Customer' means the customer of the company
'Contract' means any contract for the sale of Goods or Services by the Company to the Customer.
'Goods or Services' means any Goods or Services forming the subject of this contract, including parts and components of or materials incorporated in them.
'Scrap' means post production residues.

QUOTATION

2. Quotations by the Company unless otherwise stated in them shall be open for acceptance in 30 days of the date of the quotation.

EXISTENCE OF CONTRACT

- 3.1 No contract shall come into existence until the Customer's order (however given) is accepted by the earliest of a), the Company's written acceptance, b) delivery of the Goods or Services, or, c), the Company's invoice. These conditions shall incorporate in the Contract to the exclusion of any terms or conditions stipulated or referred to by the Customer.
- 3.2 No variation or amendment of these terms and conditions or oral promise or commitment related to it shall be valid unless committed to writing and signed by or on behalf of both parties.

PRICES

- 4.1 The prices for the Goods or services are ex-warehouse and exclude packing, insurance and carriage, and taxes or duties.
- 4.2 Prices invoiced are calculated in respect of the quantity of Goods or Services actually delivered irrespective of the quantity in respect of which any quotation was issued.
- 4.3 The Company shall have the right to adjust its prices for any increase in the price of materials, parts, labour, transport, changes in work or delivery schedules or quantities or any other costs of any kind arising for any reason after the date of the Contract.
- 4.4 Price clauses shall take effect on the date of service on the customer of notice of the charge.
- 4.5 Small orders or orders whose total invoice value is less than £[50.00], [FIFTY], pounds are subject to a minimum order surcharge of £[50.00], [FIFTY], pounds which will be advised upon receipt of order.
- 4.6 Where a Customer makes Free Issue of material to the Company on the Customers official Order the Company will if requested use its best endeavors to segregate the Customer's material but shall not be held liable for any loss thereof. The Company will inform the Customer of the existence of any scrap Free Issue material which the Company may dispose of after the expiry of 28 days if the Customer has failed to collect it. The Company may, in its absolute discretion, make a charge to the Customer for the handling and storage of free issue and scrap material.

PAYMENT

- 5.1 Are payable without discount of any kind in pounds sterling in 28 days of the date stated on the Company's invoice and in no circumstances shall the Customer be entitled to make any deduction or withhold All invoices payment for any reason at all.
- 5.2 If the Customer fails to pay the invoice price by the due date the Customer shall not be allowed any discount given in that invoice or in any other way agreed and shall pay interest on any overdue amount from the date of which payment was due to that on which it is made (whether before or after judgment) on a daily basis rate of 8% p.a. over the base rate from the time quoted by the Nat West Bank Plc and shall additionally reimburse to the Company all cost and expenses (including legal costs) incurred in the collection of any overdue amount.
- 5.3 Any extension of a credit account limit by the Company is entirely at the discretion of the Company and any limit allowed by the Company may be altered or withdrawn at any time by the Company. If the Customer exceeds its allowed credit limit without authorization by the Company, the Company may demand payment in full of all invoices delivered to the Customer and clause 5.2 shall apply to any unpaid invoices thereafter.
- 5.4 Where Goods or Services are to be delivered by installments as called off by the Customer over a period agreed in writing by the Company payment must be made in full within 30 days following each call off. Any Goods or Services which have not been called off by the end of period shall be collected by the Customer within 3 days of being given written notice, and the price of these Goods or Services will become due and payable on the expiry of that period. Where no period for call off has been agreed, it will be a term of contract that the Customer will call off the Goods or Services within a reasonable period.

TITLE

- 6.1 For the purpose of section 12 of the Sale of Goods or Services Act 1979 the Company shall transfer only such title or rights in respect of the sold Goods or Services as the Company has and if the sold Goods or Services are purchased from a third party shall transfer only such title or rights as that party had and has transferred to the Company.
- 6.2 The risk in any sold Goods or Services shall pass from the seller to the buyer upon delivery of such. Notwithstanding delivery and passing of risk, like in the sold Goods or Services, including legal and beneficial ownership shall not pass to the buyer until the seller has received in cash or cleared funds payment in full for all Goods or Services supplied to the buyer under this and any other contract. Payment of the full price shall include any interest and costs or other sum payable.
- 6.3 Until title passes the Customer shall hold the sold Goods or Services as bailee for the Company and shall store or mark them so that they at all times be identifiable as the property of the Company.
- 6.4 The Company may at any time before title passes and without any liability to the Customer repossess and dismantle and use or sell all or any of the Goods or Services and by doing so terminate the Customer right to sell or otherwise deal in them and for that purpose or determining what if any Goods or Services are held by the Customer and inspecting them, enter any premises of or occupied by the Customer.
- 6.5 Until title passes the entire proceeds of sale of Goods or Services or Service shall be held in trust for the Company and shall be held in a separate designated account and not mingled with other moneys or paid into any overdrawn bank account and shall be at all times be identifiable as the Company's money.
- 6.6 The Company may maintain an action for the price of any Goods or Services not withstanding that title in them has not passed to the Customer.

RISK, DELIVERY AND PERFORMANCE

- 7.1 The Goods or Services are delivered to the Customer when the Company makes them available to the Customer or any agent of the Customer or any carrier (who shall be the Customers agent, whoever pays its charges) at the Company's premises or other delivery point agreed by the Company.
- 7.2 Risk in the Goods or Services passes when they are delivered to the Customer.
- 7.3 The Company may at its discretion deliver the Goods or Services by installments in any sequence.
- 7.4 Where the Goods or Services are delivered by installments, no fault or failure by the Company in respect of any one or more installments shall violate the Contract in respect of the Goods or Services previously delivered or undelivered Goods or Services.
- 7.5 The Company may deliver to the Customer and the Customer shall accept in satisfaction of the Contract a lesser number than the number of Goods or Services ordered.
- 7.6 Any dates quoted by the Company for the delivery of the Goods or Services are approximate only and shall not form part of the Contract and the Customer acknowledges that in the performance expected of the Company no regard has been paid to any quoted delivery dates.
- 7.7 If the Customer fails to take delivery of the Goods or Services or any part of them on the due date and fails to provide any instructions or documents required to enable the Goods or Services to be delivered on the due date, the Company may on giving written notice to the Customer store or arrange for the storage of the Goods or Services, and on the service of the notice, a), risk in the Goods or services shall pass to the Customer, b), delivery of the Goods or Services shall be deemed to have taken place and, c), the Customer shall pay to the Company all costs and expenses including storage and insurance charges arising from its failure.
- 7.8 The Company shall not be liable for any penalty, loss, injury, damage or expense arising from any delay or failure in delivery or performance from any cause at all nor shall any such delay or failure entitle the Customer to refuse to accept any delivery or performance of or repudiate the Contract.

CLAIMS NOTIFICATION

- 8.1 Any claim that any Goods or Services have been delivered damaged are not of the correct quantity or do not comply with their description shall be notified by the Customer to the Company within three days of their delivery.
- 8.2 Any alleged defect shall be notified by the Customer to the Company within three days of the delivery of the Goods or Services or in the case of any defect which is not reasonably apparent on the inspection within 24 hours of the defect coming to the Customers attention.
- 8.3 Any claim under this condition must be in writing and must contain full details of the claim including the number of any allegedly defective Goods or Service.
- 8.4 The Company shall be afforded reasonable opportunity and facilities to investigate any claims made under this condition and Customer shall if so requested in writing by the Company promptly return any Goods and Services the subject of any claim and any packing materials securely packed and carriage paid to the Company for examination.
- 8.5 The Company shall be afforded reasonable opportunity and facilities to investigate any claims made under this condition and the Customer shall, if so requested in writing by the Company promptly return any Goods and Services the subject of any claim securely packed and carriage paid to the Company for examination.
- 8.6 The Company shall have no liability with regard to any claim in respect of which the Customer has not complied with claims procedures in these conditions.

SCOPE OF CONTRACT

- Under no circumstances shall the Company have any liability of whatever kind for :-
 - 9.1 any defects resulting from wear and tear, accident, improper use by the Customer or use by the Customer except in accordance with the instructions or advice of the Company or the manufacturer of any Goods or Services or neglect or from any instructions or materials provided by the Customer.
 - 9.2 any Goods or Services which have been adjusted, modified or repaired except by the Company
 - 9.3 the suitability of any Goods or Services for any particular purpose or use under specific conditions whether or not the purpose or conditions were known or communicated to the Company
 - 9.4 any substitution by the Company of any materials or components not forming part of any specification of the Goods or Services agreed in writing by the Company
 - 9.5 any descriptions, illustrations, specifications, figures as to performance, drawings and particulars of weights and dimensions submitted by the Company contained in the Company's catalogues, price lists or elsewhere since they are merely intended to represent a general idea of the Goods or Services and not to form part of the Contract or be treated as representations
 - 9.6 any technical information, recommendations, statements or advice furnished by the Company its servants or agents not given in writing in response to a specific written request from the Customer before the Contract is made, or,
 - 9.7 any variations in the quantities of any Goods or Services or changes of their specifications or substitution of any materials or components, if the variation or substitution does not materially effect the characteristics of the Goods or Services, and the substituted materials or components are of a quality equal or superior to those originally specified.

EXTENT OF LIABILITY

- 10.1 The Company shall have no liability to the Customer for any loss or damage of any nature arising from the breach of any express or implied warranty or condition of the Contract or any negligence breach of statutory or other duty on the part of the Company or in any other way out of or in connection with the performance or purported performance of or failure to perform the Contract except; a), for death or personal injury resulting from the Company's negligence, and, b), as expressly stated in these conditions.
- 10.2 If the Customer establishes that any Goods or Services have not been delivered, have been delivered damaged, are not of the correct quantity or do not comply with their description the Company shall, at its option, replace with similar Goods or Services, or any Goods or Services which are missing, lost or damaged or do not comply with their description, allow the Customer credit for their value or repair any damaged Goods or Services.
- 10.3 If the Customer establishes that any Goods or Services are defective the Company shall at its option, replace with similar Goods or Services or repair any defective Goods or Services, allow the Customer credit for their invoice value or to the extent that the or services are not of the Company's manufacture, assign to the Customer (so far as the Company is able to do so) any warranties given by the manufacturer of the Goods or Services to the Company.
- 10.4 The delivery of any repaired or replacement Goods or Services shall be at the Customers premises or other delivery point specified for the original Goods or Services.
- 10.5 Where the Company is liable in accordance with this condition in respect of only some or part of the Goods or Services the contract shall remain in full force and effect in respect of the other or other parts of the Goods or Services and no set-off or other claim shall be made by the Customer against or in respect of such other or other parts of the Goods or Services.
- 10.6 No claim against the Company shall be entertained for any defect arising from any design or specification provided or made by the Customer or if any adjustments, alterations or other work has been done to the Goods or Services by any person except the Company.
- 10.7 The Company shall not be liable where any Goods or Services the price of which does not include carriage are lost or damaged in transit and all claims by the Customer shall be made against the carrier. Replacements for such lost or damaged Goods or Services will, if available, be supplied by the Company at the prices ruling at the date of purchase.
- 10.8 In no circumstances shall the liability of the Company to the Customer under this condition exceed the invoice value of the Goods or Services.
- 10.9 Goods or Services supplied to the Customer cannot be returned unless the Customer obtains from the Company a returns authorization note. All returns will be made at the Customer's risk and expense. The Company reserves the right to refuse any Goods or Services returned if they are not intact in their packaging, clean, unused, undamaged and resaleable

GENERAL

- 11.1 The Company may sub-contract the performance of these terms and conditions or the Contract in whole or in part.
- 11.2 The Customer shall not assign or (without first obtaining the Company's written consent) sub-contract these terms and conditions of the Contract in whole or in part and it shall be a condition of any such consent to any sub-contracting of these terms and conditions or the Contract that the Customer shall, a), ensure and be responsible for the compliance by any sub-contractor with the terms of these terms and conditions or the Contract, b), include in the sub-contract provisions consistent with these conditions for the benefit of and enforceable by the Company and, c), furnish the Company with copies of any sub-contract upon the Company's request at any time.
- 11.3 The Company shall have a lien on the Customer property in the Company's possession for all amounts due at any time from the Customer and may use, sell or dispose of that property as agent for and at the expense of the Customer and apply the proceeds in and towards the payment of such amounts on 28 days' notice in writing to the Customer. On accounting to the Customer for any balance remaining after payment of any amounts due to the Company and the cost of sale or disposal the Company shall be discharged of any liability in respect of the Customer property.
- 11.4 The Company may at its discretion suspend or terminate the supply of any Goods or Services if the Customer fails to make any payment when and as due or otherwise defaults in any of its obligations under the Contract or any other Contract with the Company or becomes insolvent, has an administrative receiver appointed of its business or is compulsorily or voluntarily wound up or the Company bona fide believes that any of those events may occur, and in case of termination may forfeit any deposit paid.
- 11.5 If the Goods or Services are manufactured in accordance with any design or specification provided or made by the Customer the Customer shall compensate the Company in full on demand for all claims, expenses and liabilities of any nature in connection with them, including any claim, whether actual or alleged, that the design or specification infringes the rights of any third party.
- 11.6 Except for any which is expressly agreed to be included in the Goods or Services, all tools, patterns, materials, drawings, specifications and other data provided by the Company shall remain its property and all technical information, patentable or unpatentable, copyright and registered designs arising from the execution of any orders shall become the property of the Company.
- 11.7 Export terms: FOC/CIF/ex Works etc. The Customer is responsible for ensuring that any import regulations of the country of destination are complied with.
- 11.8 Where any of the Company's employees are admitted to the Customers premises pursuant to the Contract, the Customer undertakes that it will take such measures as are necessary to ensure that, as far as reasonably practicable, its premises and any plant, equipment, articles or substances in such premises are safe and without risk to the health of the Company's employees. The Customer shall indemnify the Company against all loss, claims and demands suffered by the Company as a result of any breach of this condition by the Customer.

CONFIDENTIALITY

12. The Customer shall not at any time whether before or after the termination of these terms and conditions or the Contract divulge or use any unpublished technical information deriving from the Company or any other confidential information in relation to the Company's affairs or business or method of carrying on business.

CANCELLATION

13. Orders for Goods or Services which have to be made especially for the Customer will be charged in full unless written notice of cancellation is received not later than 2 weeks before expected delivery date quoted in the Company's order acknowledgment and manufacture of them or any components for them has not commenced at the date of that notice. Orders for stock items may be canceled by written notice at any time before the Goods or Services are allocated to the Contract but if a cancellation notice is received after the Goods or Services have been allocated to the Contract then a packing and handling charge will be payable by the Customer.

FORCE MAJEURE

14. The Company shall not be liable for any act or omission arising which shall render performance of the Contract impossible or shall in any way have the effect of frustrating the common cause where such act or omission is beyond the control of either the Company or the Customer or was not reasonably foreseeable by them. Such act or omissions shall have the effect of automatically terminating the Contract.

LAW AND JURISDICTION

15. These terms and conditions shall be governed by English Law and the Customer consents to the exclusive jurisdiction of the English courts in all matters regarding it except to the extent that the Company invokes the jurisdiction of the courts of any other country.

NOTICES

17. Any notice given under these terms and conditions or Contract shall be in writing and may be served personally or, i) by registered or recorded delivery mail ii), by E-Mail or facsimile transmission iii), by any other means which any party specifies by notice to the other
A notice shall be deemed to have been served: a), if it is served in person, at the time of service b), if it was served by post, the day after the day after posting c), if it was served by E-Mail or facsimile transmission, at the time of transmission.

DATA PROTECTION ACT 1998.

If you are a sole trader or partnership - Using information about you:-

- 17.1 Barclays Bank PLC ("Barclays"), will store and process information obtained by us or them or which is given by you in your dealings with us or them on the Barclays Group computers and in any other way. This will be used by them for training purposes, credit or financial assessments and analysis (including credit scoring, market and product analysis), recovering monies and preparing statistics. They may also use such information to prevent fraud, bad debts and money laundering.
- 17.2 Telephone calls may be monitored and/or recorded for training and security purposes.
- 17.3 Barclays may give information about you and how you manage your account to the following:-
 - (a) Credit Reference agencies who may use and give out information for credit assessments and to prevent fraud;
 - (b) People who provide a service to them (including insurers) or are acting as Barclays agents on the understanding that they will keep the information confidential.
 - (c) Anyone to whom they transfer or may transfer their rights and duties under their agreement with us; They may also give out information about you if they have a duty to do so or if the law allows them to do so.
- 17.4 They may make searches about you at their credit reference agencies who keep a record which may be seen by other parties to make credit decisions.
- 17.5 If you want details of the credit reference and other agencies referred to above please contact the Customer First Unit at Barclays Sales Financing, Aquila House, Breeds Place, Hastings TN34 3DG on 0800 389 2310.