



## **TERMS AND CONDITIONS – CAVE PRODUCTS LTD**

### **1. DEFINITIONS**

"The Company" means Cave Products Limited. "The Purchaser" means the person, firm or company to be supplied with the goods by the Company. "Goods" means the goods, materials and/or other items to be supplied pursuant to the contract.

"The Contract" means the contract for sale and purchase of the Goods made between the Company and the Purchaser to which these Conditions apply.

### **2. QUOTATION**

A quotation by the Company does not constitute an offer and the Company reserves the right to withdraw or amend the same at any time prior to the Company's acceptance of the Purchaser's order.

### **3. PRICES**

3.1. Unless the prices quoted are stated to be fixed the prices payable for the Goods shall be those charged by the Company at the time of dispatch so that the Company shall have the right at any time to reserve quoted prices to take account of increases in cost including (without limitation) costs of raw materials or labour and any variation in exchange rates.

3.2. Quoted prices are "ex-works" and exclusive of Value Added Tax and other duty levy or tax assessed against the Goods by any Government or other authority.

### **4. TERMS OF PAYMENT**

4.1. Subject to Conditions below payment of invoices shall, unless otherwise agreed in writing, be made in full without any deduction or set off within 30 days of the date of invoice of the goods.

4.2. Any extension of credit allowed to the Purchaser may be changed or withdrawn at any time.

4.3. The Company shall have the right to charge on overdue accounts at the rate of 3% above the Barclays Bank Plc base rate from the due date for payment thereof until receipt by the Company of the full amount whether or not after judgment.

4.4. If in the opinion of the Company the credit - worthiness of the Purchaser shall have deteriorated prior to the delivery the Company may require full or partial payment of the price prior to delivery or the provision of security for payment by the Purchaser in a form acceptable to the Company.

### **5. DELIVERY**

5.1. Time not being of the essence of the Contract delivery dates mentioned in any quotation or acceptance form or elsewhere are approximate only and not of any contractual effect. The Company shall not be under any liability to the Purchaser in respect of any delay in delivery howsoever arising. In the event of total failure to deliver any Goods the liability of the Company shall be limited to the value of such goods referred to in the relevant invoice or as otherwise specified in the Contract.

5.2. In the event of the Purchaser returning or failing to accept any delivery of the Goods in accordance with the Contract the Company shall be entitled at its option either to deliver or invoice the Purchaser for the balance of Goods then remaining undelivered or to suspend or cancel further deliveries under the Contract. The Company shall be entitled to store at the risk of the Purchaser any goods which the purchaser refuses or fails to accept and the Purchaser shall in addition to the invoice price pay all costs of such storage and any additional costs or carriage incurred as a result of such refusal or failure. The Company shall be entitled after the expiration of 3 Months from the date upon which the price became payable to dispose of the goods in such manner as the Company may determine.

5.3. Unless otherwise specified delivery shall be "ex-works" so that the goods shall be deemed to have been delivered and the risk therein to have passed to the Purchaser upon the Company notifying the Purchaser that the goods are available for collection.

5.4. Unless otherwise expressly agreed the company may affect delivery in one or more instalments. Where delivery is affected by instalments each instalment shall be treated as a separate contract.

5.5. If in the case of the Contract or any order involving more than one delivery default is made in payment on the due date the Company shall have the right to suspend all or any further deliveries pending payment or to terminate the Contract in its entirety by notice in writing to the Purchaser.

### **6. RETURNS**

6.1. If the Purchaser wishes to return Goods that are neither faulty or damaged, they may do so by agreement in writing with the Company. However, such returns will be subject to a handling charge of 15% of the value of the Goods which shall be deducted from any credit note issued to the Purchaser.

### **7. TITLE**

7.1. The goods shall remain the sole and absolute property of the Company as legal and equitable owner until such time as the Purchaser shall have paid to the Company the agreed price.

7.2. Until such payment the Purchaser shall be in possession of the goods solely as bailee for the Company and in fiduciary capacity and the Purchaser shall store the goods in such a way as to enable them to be identified as the property of the Company.

7.3. The Company reserves the immediate right of re-possession of any goods to which it has retained title as aforesaid and thereafter to re-sell the same and for this purpose the Purchaser hereby grants an irrevocable right and license to the Company's employees and agents to enter upon all or any of its premises with or without vehicles during normal business hours. The right shall continue to subsist notwithstanding the termination of the Contract for any reason and is without prejudice to any accrued right of the company there under or otherwise.



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7.4. The Purchaser agrees immediately upon being so requested by the Company to assign to the Company all rights and claims which the Purchaser may have against its customers arising from sub-sales of goods until payment is made in full as aforesaid.

#### **8. LIABILITY**

8.1. The Company shall not be liable for any shortage in the quantity delivered unless a claim in writing shall have been received by the Company from the Purchaser within 7 days of delivery of the Goods. Where liability for any shortage is accepted by the Company, the Company's only obligation shall be to make good such shortage.

8.2. In the event of any defect or failure in the quality, nature or condition of the Goods or failure of the Goods to comply with any specification the Company shall replace or repair free of charge any goods provided that the defect or failure arises under proper use and solely by reason of faulty material or workmanship and written notice is given to the Company within 12 months of delivery of the Goods after which all liability on the Company's part shall cease.

8.3. The Company's aggregate liability to the Purchaser whether for negligence, breach of contract, misrepresentation or otherwise shall in no circumstances exceed the cost of the defective, damaged or undelivered goods which give rise to such liability, as determined by the net price invoiced to the Purchaser in respect of any occurrence or series of occurrences.

#### **9. FORCE MAJEURE**

9.1. The Company shall not be liable to the Purchaser for any loss or damage which may be suffered by the Purchaser as a direct or indirect result of the supply of the Goods by the Company being prevented, hindered or delayed due to any force majeure circumstances.

9.2. In this condition "force majeure circumstances" shall mean any act of God, riot, strike, lock-out, trade dispute or labour disturbances, accident breakdown of plant or machinery, fire, flood, difficulty in obtaining workmen, material or transport or other circumstances whatsoever outside the control of the Company affecting the provision of the Goods or of raw materials therefore by the Company's usual source of supply or the manufacture of the Goods by the Company's normal means or the delivery of the Goods by the Company's normal route or means of delivery.

#### **10. TERMINATION**

If the Purchaser enters into a deed of arrangement or commits an act bankruptcy or compounds with his creditors or if a receiving order is made against him or (being a company) it shall pass a resolution or the Court shall make order that the Purchaser shall be wound up (otherwise than for the purpose of amalgamation or reconstructions) or if a receiver shall be appointed of any of the assets or undertaking of the Purchaser or if circumstances shall arise which entitle the Court or a creditor to appoint a receiver or manager or which entitle the Court to make a winding-up order or if the Purchaser takes or suffers any similar action in consequences of debt or commits any breach of any part of this or any other contract between the Company and the Purchaser the Company may stop any Goods in transit and suspend further deliveries and by notice in writing to the Purchaser may forthwith determine the Contract without prejudice to the provisions of Condition 5.3 hereof and to existing claim.

#### **11. WAIVER**

The failure on the part of either party to the Contract to exercise or enforce any rights conferred by the Contract shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

#### **12. GOVERNING LAW**

The Contract shall be governed by and construed and interpreted in accordance with the laws of England and for the purposes of settlement of any disputes arising out of or in connection with the Contract the parties hereby submit themselves to the jurisdiction of the English Courts.



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