

General Condition of Sale of Goods of BAKER SELF ADHESIVE LABEL COMPANY LIMITED



A GENERAL

1. Application of Conditions

(a) These Conditions shall apply to all contracts entered into by BAKER SELF ADHESIVE LABEL COMPANY LIMITED ("the Seller") for the sale of goods and shall extend to any goods supplied in substitution for or in addition to the contract goods.

2. The Contract

(a) The contract consists of the Buyers Order and the Sellers Acknowledgement (effective on posting) including these Conditions but excluding the provisions of the Order which conflict with or are in addition to the Acknowledgement or the Conditions. In particular no terms, conditions or reservations stipulated by the Buyer (even if the same shall have been signed by the Seller) or any purported variation or delegation from or addition to these conditions or any course of dealing shall be binding on the Seller or affect the application of these Conditions except so far as the same are expressly agreed in writing by the Head Office of the Seller.

(b) No servant or agent of the Seller has power to vary these Conditions orally.

(c) No relaxation forbearance delay or indulgence of the Seller in enforcing any of its strict rights here under shall affect prejudice or restrict such rights and any waiver by the Seller in respect of any breach of contract by the Buyer shall not operate as a waiver of any subsequent or continuing breach.

(d) In the event that any Condition (or part thereof) shall breach or be unenforceable under any rule of law or legislation it shall be of no effect but all the other provisions of the Condition shall remain in full force and effect and shall be severable from such offending Condition or part of it. The parties agree that as from the date of such judicially certified breach or unenforceability they will assume obligations as near as may be to those contained in the offending Condition or part thereof.

(e) The Seller reserves the right to amend its price list quotations invoices and credit notes to correct any errors.

(f) Any statement as to price quantity delivery periods of availability for purchase of any item of goods referred to in any price list, quotation, catalogue, advertisement or other similar document of the Seller is an invitation to treat only and does not constitute an offer by the Seller to sell on those terms and the Buyer acknowledges that it has not or will not enter into the Contract in reliance on any such statement.

3. Cancellation

No contract may be cancelled without the consent of the seller. If any Contract is with the consent of the Seller cancelled the Buyer shall indemnify the Seller for all costs and consequential losses claimed by the Buyer to have arisen out of such cancellation or at the option of the Seller and as a genuine pre-estimate by the parties of the loss likely to be suffered by the Seller, pay to the Seller liquidated damages of 10 per cent of the value of the order, subject to a minimum of £50.

4. Termination

If the Buyer shall become bankrupt or make any composition with the Buyers creditors or if a receiver shall be appointed of the whole or any part of the assets of the Buyer or if the resolution shall be passed or petition be presented or any order made for the winding up of the Buyer or if the Buyer shall fail to pay for any goods supplied by the Seller on the due date the Seller may immediately without notice terminate the Contract with the Buyer without prejudice to any rights which may be accrued to the Seller prior to such termination.

5. Notices

Any notice or other communication required or permitted here under shall be given in writing to the other party at the address stated or at such other address as shall be given by either party to the other in writing. Such a notice shall be deemed to have been given or made when delivered personally or placed properly addressed, post registered and pre-paid in the mail of the U.K. or communicated by fax during the working hours of the other party.

6. Unless otherwise agreed in writing the contract shall in all respects be construed as an English contract and in conformity with English law.

7. The Courts of England shall have exclusive jurisdiction.

8. All Orders are accepted subject to trade references being satisfactory.

SELLERS OBLIGATIONS

9. Delivery

(a) Notwithstanding acceptance of an Order all goods are sold subject to availability (i.e. goods of the Contract description owned and warehoused by the Seller) at the time of delivery.

(b) The Buyer shall provide sufficient labour and equipment to offload the goods at the place of delivery.

(c) Any times quoted for delivery are to be treated as estimates only and the Seller shall not be liable for failure to deliver within such time unless Buyer has suffered loss thereby and the amount payable in respect thereof shall have been agreed in writing on the signing hereof as liquidated damages, in which case the Sellers liability shall be limited to that amount in all cases, whether a time for delivery be stated or not the time for delivery shall be extended by a reasonable period if delay in delivery is caused by instructions or lack of instructions from the Buyer or by industrial dispute or by any cause whatsoever beyond the Sellers reasonable control.

10. Storage

If the Buyer fails to take delivery on the agreed delivery date or if no specific delivery date has been agreed when the goods are ready for delivery, the Seller shall be entitled to store and insure the goods and to charge the Buyer the reasonable costs of so doing and to tender its account for the price under condition 16.

11. Risk

Risk of loss of or damage to the goods shall pass to the Buyer when the goods have been delivered to the Buyer or to his agent or when they leave the Sellers premises whichever occurs first or in the event that they are delivered in the Sellers own transport, when they leave such transport.

12. Loss or damage in transit

(a) When the price quoted includes delivery the Seller shall repair or replace free of charge goods damaged in transit or not delivered in accordance with the advice note subject to the following conditions:-

(i) All goods must be examined by the Buyer immediately on receipt.

(ii) Where breakage or shortage has been sustained the carriers receipt note must be endorsed to this effect and the Buyer must in addition notify the carrier and the Sellers sales officer within 48 hours.

(iii) All damaged goods must be kept for inspection by the Seller or Carrier until otherwise advised by the Seller.

(iv) In the event of goods ordered not being received within 14 days of invoice date the seller must be notified in writing immediately.

(v) If short delivery does take place the Buyer undertakes not to reject the goods but to accept the goods delivered as part performance of the Contract.

NO CLAIMS CAN OTHERWISE BE ENTERTAINED AND SELLERS LIABILITY FOR NON-DELIVERY OR SHORT DELIVERY OR DAMAGE IN TRANSIT SHALL IN ANY EVENT AND NOTWITHSTANDING THE FOREGOING BE LIMITED BY AND SUBJECT TO THE TERMS GOVERNING THE LIABILITY OF THE CARRIER.

(b) Deliveries varying in quantity compared with the Order by not more than 5 per cent, or in the case of work in more than one colour 10 per cent, shall be accepted by the Buyer and paid for at the agreed price.

13. Retention of Title

a. The Work remains the Seller's property until the Buyer has paid for it and discharged all other debts owing to the Seller.

b. If the Buyer becomes subject to Insolvency and the Work has not been paid for in full the Seller may take the goods back and, if necessary, enter the Buyer's premises to do so, or to inspect and/or label the goods so as to identify them clearly.

c. If the Buyer shall sell the goods before they have been paid for in full he shall hold the proceeds of sale on trust for the Seller in a separate account until any sum owing to the Seller has been discharged from such proceeds.

d. Where the Buyer is in breach of these Terms or performs any act of Bankruptcy or Insolvency the Seller reserves the right to approach the Buyer's customer and to offer the Work directly to them, notwithstanding

the fact that this will involve advising the Buyer's customer that the Buyer is in breach or in default.

14. Liability

(a) Any descriptions or details of goods given by the Seller are meant only as a general indication of the nature of the goods and the Seller shall not be liable for nor shall the Buyer be entitled to any remedy on the ground of discrepancies between the same and the goods supplied.

(b) Goods previously supplied by the Seller shall not be sample for goods subsequently to be sold and the Seller does not guarantee that goods of the same description will correspond with good Seller shall be a sale by sample.

(c) (i) It is the Buyer's responsibility to satisfy itself that the goods supplied are suitable for its requirements and the Seller does not profess to have any skill or judgment in relation to the particular needs of the Buyer.

(ii) All goods supplied by the Seller to the Buyer will be supplied on the basis that they are not required for special purpose different from the usual purpose for which such goods are supplied and the Buyer shall be deemed to have full knowledge of the nature and properties of the goods supplied.

(d) Any goods supplied by the Seller which the Buyer shall prove to the Seller's satisfaction to have been defective through faulty materials design or workmanship will at the Buyer's option be repaired replaced or the value refunded in each case provided that the defects appear under proper use in an appropriate environment within 6 calendar months of delivery and the Seller is notified in writing of such defects within 14 days after such appearance and provided that the goods alleged to be defective or samples thereof, as and if requested by the Seller are returned to the Seller in the manner and within the time specified in Seller's said request. The cost of such carriage of the returned parts in accordance with Seller's request to be borne by Seller where the goods are proved to be defective and all other cases by Buyer.

(e) The Seller does not exclude or restrict its liability:-

(i) for death or personal injury resulting from negligence of the Seller its servants or agents (but not independent contractors) while acting in the course of their employment by the Seller, or,

(ii) for breach on the part of the Seller of any undertaking as to title implied by Section 12 of the Sale of Goods Act 1979 or

(iii) if the Buyer does not make the Contract in the course of the business or hold himself out as doing so but not otherwise for a breach on the part of the Seller of any under taking implied by section 13 to 15 inclusive of the Sale of Goods Act 1979.

(f) Save as aforesaid the warranty referred to in sub-clause (d) above is in substitution for and shall replace all conditions and warranties on the part of the Seller implied by statute common law or otherwise all of which are expressly excluded. The Seller does not make or give nor has any servant or agent of the Seller authority to make or give any representation or undertaking as to the quality of the goods or their correspondence with description or as to their fitness for any particular purpose or otherwise about the good.

(g) Subject to sub-clause e(i) hereof, whether the Buyer has notified the Seller of its intention to sell the goods to a third party or different destination or not the Seller shall be under no obligation

to ensure that the goods comply with the requirements of that third party or the laws or regulations of any country other than United Kingdom and the Buyer shall have no recourse what so ever against the Seller should the goods be unfit for the purpose required.

(h) Subject to sub-clause e(i) hereof, notwithstanding anything herein contained the Seller shall not in any circumstances be under any liability to the Buyer in respect of any consequential or special loss or damage sustained by the Buyer caused by breach of contract, negligence or how so ever.

15. Intellectual Property Rights

(a) The Seller will indemnify the Buyer against any claim of infringement of letters patent, registered design, trade mark or copyright (published at the date of the Contract) by the use or sale of any goods supplied by the Seller to the Buyer, and against all costs and damages which the Buyer may incur in any action for such infringement or for which the Buyer may become liable under any such action, provided always that this indemnity shall not apply to any infringement which is due to the Seller having followed a design or instruction furnished or given by the Buyer or to the use of such goods in a manner or for a purpose or in a foreign country not specified or disclosed to the Seller, or to any infringement which is due to the use of such goods in association or combination with any other goods not supplied by the Seller and provided also that this indemnity is conditional on the Buyer making no admission in respect of such alleged infringement and giving the Seller the earliest possible notice in writing of any claim being made or action threatened or brought against the Buyer and on the Buyer permitting the Seller at the Seller's own expense to conduct any litigation that may ensue and all negotiation for a settlement for the claim. The Seller shall be entitled to any damages or cost recovered.

(b) The Buyer warrants that any design or instruction furnished or given by it shall not be such as well cause the Seller to infringe any letters, patents, registered design, trade mark or copyright in the execution of the Order.

BUYER'S OBLIGATIONS

16. Prices

(a) All prices quoted in any document issued by the Buyer are exclusive of VAT.

(b) The Contract Price stated is unless otherwise stated based on current costs of production (materials, transport and wages) and is subject to amendment without notice on or after acceptance to meet any rise or fall in such cost between the date of the order and the date of delivery. Any variation to prices stated as a result of Government taxes or levies will also be for the Buyer's account.

17. Payment

(a) Unless advised to the contrary in writing all payments are due within 30 days of invoice, goods may be invoiced immediately on delivery.

(b) In the event of any account remaining unpaid after its due date for payment then:-

(i) payment for all goods delivered at any time by the Seller including goods delivered after those to which the unpaid account relates shall forthwith become due, and,

(ii) the Seller reserves the right to claim interest on overdue payments as (understood in the light of (i) above) at a rate of 4% above National Westminster Bank Plc. base lending rate, current at the date any payment becomes overdue.

(c) The Buyer shall have no right of set-off in respect of any claims it may make against the Seller.

(d) Should the Seller have reasonable grounds for doubting the Buyer's ability or willingness to pay on due dates it shall be at liberty to cancel the Contract or to postpone delivery until payment has been received.

18. Security

(a) The goods shall remain the property of the seller until paid for in full by the Buyer and until such payment the Buyer shall hold the goods (and all items incorporating the goods) as bailed on behalf of and in a fiduciary capacity for the Seller and shall store and insure the goods in such a way as to be identifiable as the property of the Seller.

(b) Notwithstanding sub-clause (a) of this clause the Buyer shall be entitled to sell the goods as principal in the ordinary course of his business and in the event of such sale property in the goods shall pass to the Buyer and thereafter to the Purchaser.

(c) If the goods are sold before the Seller has been paid in full the Buyer shall hold the proceeds of sale on trust for the Seller.

(d) In the event of non-payment by the Buyer by the due date the Seller shall be entitled in addition to all other rights to enter upon any land or premises where the goods the property of the Seller may for the time being be using (or be reasonably thought to be) such measures as may be reasonably necessary to gain access to such land or premises and recover possession of them.

19. Taxes and Permits

(a) In addition to all charges specified the Buyer shall pay or reimburse the Seller for all taxes and duties (not based on the Seller's net income) whether levied on such charges or on the goods or their use by the Buyer.

(b) The Buyer is solely responsible for obtaining all permits and approvals necessary for shipment, import and export of all goods supplied hereunder.