

**AJ FLOORING YORKSHIRE LIMITED (hereinafter referred to as "SELLER")**

**STANDARD TERMS & CONDITIONS OF BUSINESS**

THESE CONDITIONS CONTAIN LIMITATION OF SELLERS LIABILITY

1. General

(a) These conditions supersede all representations or arrangements, and contain the entry agreement between the parties in connection with the products (unless otherwise stated on seller's order confirmation). All other terms and conditions express or implied are excluded. None of the seller's employees or agents has Authority to modify or supplement these conditions or to accept any order except on seller's official sales forms  
(b) Nothing in this conditions shall restrict the statutory rights of a buyer who deals as a consumer.  
(c) References to the product include the packing. If Seller has not issued an order confirmation, "seller's order confirmation" means any document issued by seller indicating the terms on which the products are supplied.  
(d) Subject to the provisions of this contract terms defined in the 1980 editions of Incoterms have the same meaning when used in these conditions.

2. Delivery

(a) Deliver or despatch dates quoted or registered are given or accepted by seller in goods faith but are not guaranteed unless stated to be "guaranteed" on Seller's order confirmation.  
(b) Delivery shall be made to be the place(s) and by the method (s) specified on seller's order confirmation (or if none, ex-works). Buyer is responsible for un-loading. Buyers or its carriers receipt shall be conclusive evidence of delivery  
(c) Packaging included in the price and is not returnable otherwise stated on Seller's order confirmation. Any special requirements will incur a non-refundable additional charge.  
(d) Buyer shall accept manufacturing tolerances accepted in the trade, and shall pay pro rate for the actual quantity delivered. The quantity on seller's despatch note shall be conclusive evidence of the amount delivered except in cases of manifest error.  
(e) Save the purposes of clause 3(e), 6(b) and 7, each delivery shall be treated as a separate contract, and partial deliveries are permitted unless otherwise stated on Seller's order confirmation. Accordingly, failure to make any particular, or any breach of contract by Seller relating thereto, shall not affect any remanding deliveries.  
(f) Buyer shall take delivery of the products by any date quoted by Seller or requested by Buyer (if none) within a reasonable time. Seller may deliver early where reasonable. Buyer shall be responsible for all storage and other costs relating to Buyer's failure to comply with the contract.  
(g) Buyer shall promptly supply all information and assistance required for seller to execute Buyer's order.  
(h) If the products are soled FAS or FOB, an on-board bill of lading, a mats receipt or other document in proof of delivery alongside the vessel is conclusive evidence of delivery. If Seller or its carrier is unable for any reason to place the produces on board ship upon their arrival at the port of delivery, a warehouse receipt for the products shall be treated as sufficient delivery.  
(i) If the are soled CIF or C&F, a receipted bill of lading or way bill is conclusive evidence of delivery.

3. Price

(a) Unless otherwise on seller's order confirmation, prices are ex works and exclusive of VAT and all other duties, free or taxes. All due to seller be paid in currency and to the address on seller's order confirmation, or such address as seller may require.  
(b) Unless otherwise stated on seller's order confirmation, payment is to be made before good are despatched. If payment is made by cheque, then funds must clear before any despatch is made.  
(c) Where price are quoted in currencies other than sterling, Buyer shall compensate Seller of any currency losses suffered by Seller as a result of buyer's failure to pay for the produces on the date specified in Clause 3 (b).  
(d) Prices are firm for deliveries scheduled within one month from the date of seller's order confirmation. Thereafter seller may increase the price in accordance with increases in its costs and/or its general price list. Buyer shall pay for any increases in delivery costs after the date of seller's order confirmation.  
(e) In the circumstances described in clause 6(c), all unpaid balances owing to seller from buyer shall become a debt immediately due and payable to seller, irrespective of whether property in the products has passed to buyer.  
(f) Time of payment is off the essence of the contract. Seller may charge interest at 4% above Barclays Bank PLC's base rate per annum for the time being (to accrue from day to day) on any sum owed to seller under the contract which is not paid on the date

specified in clause 3(b), after as well as before any judgement. Buyer may not withhold payment or make any set-off on any account.

(g) Seller may appropriate sums received from buyer against any debt due to seller from buyer (under this or any other contract), irrespective of any purported appropriation by buyer.

4. Sellers Warranty

(a) Seller's warrants that upon delivery the products: (i) are sold with good title; and (ii) comply with the seller's current published technical specifications (or, where there are none, that they comply with any specification appearing on the seller's order confirmation and are made with sound materials and workmanship to normal standards in the industry), in all material respects ("seller's warranty"). Seller does not warrant the products are fit for any particular purpose of/or intended use by buyer, and it is for buyer to satisfy itself that the products are so fit.

If the products correspond to any sample supplied or accepted by seller, they shall be considered to comply with seller's warranty.

(b) Seller's warranty is given on the condition that any instructions of seller relating to the products are strictly complied with.

(c) Buyer shall examine the products as soon as reasonably practicable after delivery. Buyer shall immediately notify seller of any incomplete or failed delivery, loss or damage during carriage, or if the products fail to comply with seller's warranty. Unless buyer so notifies seller within 30 days after the date when buyer became or ought reasonably to have become aware of any of the above, and in any event before the earlier of (i) 6 months from the date of despatch by the seller; and (ii) 30 days after the products have been used or put into process buyer shall (subject to clauses 4(i) and 6(a)) be treated as having waived all claims connected with the matter which should have been notified.

(d) Subject to notification within the period required by clause 4(c), if it is shown to seller's reasonable satisfaction that the products fail to comply with seller's warranty, seller shall be given a reasonable opportunity to correct such failure, and, if seller does not or is unable to do so, seller will at buyer's option, either refund the contract price (or, if the products have depreciated for reasons other than seller's default or have been used or put into process, a reasonable part of the contract price), or replace the products (if reasonably practicable) within a reasonable time, free of charge. Such correction, refund or replacement shall, subject to clause 4(f) below and clause 8(a) be seller's sole liability in relation to any such failure. Replacement products are covered by these conditions, including seller's warranty. Products which are alleged not to comply with the contract shall as far as possible be preserved for inspection by seller, and replaced or if a refund is made shall be returned to seller (at seller's cost) if seller so reasonably requests.

(e) Clause 4(a)(ii) does not apply to seconds, remainder stock or samples or to goods sold as obsolete or sub-standard.

(f) (i) Seller does not exclude any liability which cannot be excluded as between buyer and seller under United Kingdom legislation. (ii) If the products are intended by the seller to be and are in fact are resold by buyer in the United Kingdom to individual(s) without further processing, testing or inspection, seller will pay reasonable compensation to buyer for any damages and costs finally awarded against buyer in the United Kingdom under part 1 of the Consumer Protection Act, 1987 ("The CPA"), but only to the extent that seller is itself liable under the CPA for the claim in question because the products were defective (within the meaning of the CPA) at the time of delivery by seller. Seller shall not be liable to the extent that any liability is buyer's responsibility under clause 8(d)(i) or arises from any default of buyer (including but not limited to any failure by buyer to ensure that the products are sold only for uses recommended by seller), or where buyer knew or ought reasonably to have known of the said defect.

(g) It is a condition of buyer's right of recovery under clause 4(f) that buyer shall promptly notify seller of any relevant claim, shall comply with the seller's reasonable requirements to minimise liability and/or avoid further liability, and shall allow the seller conduct of any action and/or settlement negotiations.

5. Force Majeure

(a) Seller shall not be liable for any failure to comply with the contract related to any circumstances whatever (whether or not involving seller's negligence) which are beyond seller's reasonable control and which prevent or restrict seller from complying with the contract.

(b) Seller may where reasonable in all circumstances (whether or not involving seller's negligence) without liability suspend or terminate (in whole or in part) its obligations under the contract, if seller's ability to manufacture, supply, deliver or acquire materials for the production of the products by seller's normal means is materially impaired.

6. Termination and Suspension

(a) Except where buyer has caused or contributed to any delay, buyer may (as buyer's sole remedy, without affecting the balance of the contract quality) terminate the contract by notice to seller in respect of any instalment of products which is not despatched: (i) By any date stated to be "guaranteed" on seller's confirmation; or (ii) Within 60 days after any date quoted and seller's order confirmation (unless the goods have been specially manufactured or adapted for the buyer.)

(b) Seller may (without prejudice to other rights or remedies) terminate or suspend seller's performance of the whole or any outstanding part of the contract in the circumstances described in clause 6(c). Seller may also suspend deliveries while investigating any claim relating to prior shipments (under any contract) of products.

(c) The relevant circumstances are if: (i) Buyer fails to take delivery of or pay for the products on the date required under clause 2(f) or 3(b) respectively, or breaches any other term of the contract; or (ii) Buyer becomes bankrupt or insolvent or if a receiver or encumbrancer takes possession of any material part of buyer's assets, or buyer suffers any foreign equivalent of the foregoing or (iii) Seller has reasonable grounds for suspecting that an event in clause 6(c)(ii) has occurred or will occur, that buyer will not pay for the products on the due date, and so notifies buyer.

(d) If buyer provides seller with security for the contract price, reasonably acceptable to seller, within three working days after a notice has been given under clause 6(c) (iii), seller shall withdraw the notice.

#### 7. Risk and Title

(a) Risk in the products shall pass to the buyer upon delivery.

(b) However, seller retain ownership of the products until: (i) Seller has received payment in full for the products; or (ii) Buyer mixes or processes the products so that they lose their identity or are irrecoverably incorporated or mixed with other goods; or (iii) Buyer sells them at arm's length in good faith to an unrelated third party.

(c) Until ownership of the products passes to buyer, buyer shall insure them against all usual risks to full replacement value, shall sell, use or part with possession of them only in the ordinary course of trading, and shall where reasonably possible keep each delivery separate and clearly identified as seller's property.

In the circumstance described in clause 6(c), buyer's right to sell, use or part with possession of the products shall terminate, and seller may recover and/or sell the products and may enter buyer's premises for that purpose without prejudice to seller's other remedies.

#### 8. Intellectual Property; Third Party Claims

(a) Seller will defend buyer against any third party claim made against buyer in the United Kingdom alleging that the products, as such, in the original state sold by the seller, infringe any patent, registered design, trademark, trade name or copyright effective in the United Kingdom, seller will pay any damages and costs finally against buyer in the United Kingdom in respect of such a claim. Seller may modify the products so that they cease to infringe so long as buyer is not substantially prejudiced by the modification.

(b) Clause 8(a) shall not apply to the extent that the products are manufactured to buyer's specification (or as provided in clause 8(d))

(i) or in respect of any products not contemplated by seller at the date of seller's order confirmation.

(c) Buyer shall not use any trademarks or trade names applied to or by seller in relation to the products in any manner not approved by seller.

(d) Buyer shall indemnify seller against any liability incurred by seller: (i) As a result of incorporating property of buyer in the products or applying any trade mark, trade name or design to the products on buyer's instructions, or complying with any other instructions of buyer relating to the products, and (ii) In relation to any third party claims arising from the use made of or dealings by buyer in the products (irrespective of whether they involve the negligence of the seller, its agents or employees), except as provided in clause 8(a) and 4(f) or if arising from seller's wilful default.

(e) The indemnified party shall promptly notify the other of any relevant claim, shall comply with the other's reasonable requirements to minimise the liability and/or avoid further liability, and shall allow the other conduct of any action or settlement negotiations on reasonable terms.

#### 9. Advice and Assistance

Seller shall not be liable, in contract, tort or otherwise, and irrespective of the negligence of seller, its agents or employees, before any representations, advice or assistance given (under this contract or otherwise, and whether before or after the date of the contract) by or on behalf of seller in connection with the products or the contract, unless and then only to the extent that seller has made such representations, and/or agreed to provide such advice or assistance, for a fee under a separate written contract with buyer.

#### 10. Limitation of Liability

(a) Without prejudice to any other limitations of seller's liability (whether effective or not): (i) In no circumstances whatever shall seller be liable (in contract, tort or otherwise, and irrespective of any negligence or other act, default or omission of seller or its employees or agents) for any indirect or consequential losses (Including loss of goodwill, business or anticipated saving), loss of profits or use, or (subject to clause 4(f) and 8(a) any third party claims, in connection with the products or the contract. (ii) Except as provided under clause 4(f) and 8(a), seller's total aggregate liability in connection with the products or the contract (in contract, tort or otherwise and whether or not related to any negligence or other act, default or omission of seller or its employees or agents), is limited to the contract price ex-works and ex-vat.

(b) Without prejudice to seller's warranty, buyer's sole remedy shall be in damages.

(c) Seller's warranty and buyer's remedies under clauses 4(f) and 8(a) are in substitution for any other warranties, obligations, representations, liabilities, terms or conditions (whether they are express or implied, or arise in contract, tort or otherwise, and irrespective of the negligence of seller, its employees or agents) in connection with the products (including without limitation, any relating to merchant ability, fitness for purpose, conformity with description or sample, care and skill of compliance with representations, but excluding implied statutory warranties relating to title), and all such warranties, obligations, representations, liabilities, terms or conditions are hereby expressly excluded.

(d) Without prejudice to clause 4(c), no action may be brought against the seller in connection with the products or the contract unless proceedings are issued against the seller within two years after buyer became or ought to have become aware of the circumstances giving rise thereto.

(e) This clause 10 applies notwithstanding any fundamental breach or breach of a fundamental term of the contract by seller.

#### 11. Health and Safety at Work

(a) Buyer shall ensure that all products are all safely and lawfully received, stored, maintained, used or applied by buyer, or that buyer obtains relevant information in seller's possession relating thereto.

(b) Buyer shall ensure that all appropriate safety information (whether supplied by seller, buyer or otherwise and drawn to the attention of the customers and all others (including buyer's employees) who require assistance handling or use of the products.

#### 12. Miscellaneous

(a) The contract may not be assigned by buyer without seller's prior written consent.

(b) Notices must be in writing to seller's or buyer's address and are deemed delivered on the first working day after sending by hand or (subject to confirmation of transmission) by telex or facsimile within the UK on the third working day after being placed prepaid in the first class post to buyer's or seller's address. Qualified acceptances by buyer on delivery notes shall not constitute notice of any claim or acceptance by seller of any such qualification.

(c) No failure by seller to enforce any provision of this contract shall be construed as a release thereto or sanction any further breach.

(d) If any provision of the contract is found to be invalid or unenforceable it shall have effect to the maximum extent permitted by law, or, if not so permitted, shall be deemed deleted.

#### 13. Law

This contract shall be governed by and construed in accordance with the law of England. Buyer hereby agrees, for seller's exclusive benefit, that the English Courts shall have sole jurisdiction to hear all claims or proceedings connected with the products or the contract. Seller may never the less bring claims in any other Courts of competent jurisdiction.