

Payment

1 (a) Payment shall be made net cash not later than the last day of the month following that in which the goods are invoiced. The time of payment shall be the essence of the contract.

(b) Interest on overdue accounts may be charged at the rate of 3% over National Westminster plc Base accrued on a day-to-day basis.

Time of Delivery

2 (a) Times and periods specified for delivery are approximate only. If no time or period is specified, delivery will be made when we notify you that the goods are ready.

(b) We are not to be considered to be in the making of any delivery until you have made a request in writing for that delivery and given us a reasonable time in which to comply with it.

(c) Where a period for delivery is specified deliveries shall (unless otherwise agreed) be made at such intervals and in such quantities during that period as we may notify to you.

(d) Where the contract provides for deliveries to be made to your instructions, you shall be responsible for giving us reasonable instructions within a reasonable time and if you fail to do so you shall be treated as having failed to take delivery of the goods.

(e) Where delivery under the contract is to be effected by more than one consignment, no cancellation or claim by you in respect of any consignment shall affect the remainder of the contract.

Manufacture

3. We shall be entitled to manufacture or order or print sufficient tinplate to fulfil the entire quantity of goods due to be delivered under the contract at any time after such goods have been contracted for irrespective of any date which may be specified for delivery thereof.

Exclusion of Defective Goods

4. All guarantees, representations, warranties or condition relating to the fitness for purpose, condition or quality of any goods (whether expressed or implied by statute, common law or otherwise) are excluded to the fullest extent permitted by law, even if that purpose is known to us. It is the responsibility of the customer to ensure that the type of goods ordered are suitable for use with their products.

Replacement of Defective Goods

5 (a) All goods supplied will be made up to our standard specification which is available from us on request and we will give you a reasonable credit or allowance in respect of (or, at our option will replace free of charge at the place of delivery) any defective goods delivered (but not goods damaged in transit after the risk has passed to you) provided notice in writing is given to us within 28 days of delivery and the defective goods are placed aside for inspection by our representative. This shall be a condition precedent to the making of any claim in respect of any goods alleged to be defective.

(b) Our total liability whether arising from or based upon tort, including negligence, strict liability, contract, indemnity or any other basis or cause, shall not in any event exceed the price paid for the goods and in particular we shall not be responsible for any expenditure incurred by you in respect of goods proved or alleged to be defective, not for consequential loss of any kind to you, howsoever caused.

(c) Contract goods may only be returned to us if so agreed by us.

(d) In the event of supply of any defective goods any agreed credit will not be unreasonably withheld however payment of any outstanding invoices cannot be held pending receipt of credits / claims.

Carriage

6 (a) Where you are responsible for collection and transport, and either you do not notify us of arrangements within a reasonable time of the due date of delivery, or you request us to make the arrangements on your behalf, we shall despatch the goods and charge the carriage to you.

(b) No liability in respect of goods undelivered, lost, pilfered or damaged in transit will be accepted by us where the ownership of the goods has passed to you before the occurrence or where the carrier has been given a clear receipt for the goods.

(c) No liability in respect of any loss or damage to goods in transit will be accepted by us unless:-

(i) In the event of damage to or partial loss of the consignment you notify both us and the carrier within three days from the date of receipt of the goods, or

(ii) In the event of loss or non-arrival of the whole consignment you notify both us and the carrier within ten days of the date of despatch by us.

Force Majeure etc.

7 (a) If events beyond our control prevent us from delivering any goods by the appropriate delivery date such date shall be postponed for a reasonable period. Beyond such a period we may without liability cancel this contract as regards such goods or you may without liability cancel this contract as regards such goods unless the goods either have been or are in the course of being made, or have been appropriated by us to this contract.

(b) If by reason of any such circumstances as aforesaid, we are prevented from supplying you with the full quantity of goods deliverable hereunder and also at the same time maintaining in full our other business in such goods, then we shall be at liberty to withhold, reduce or suspend deliveries hereunder to such extent as we shall consider reasonable and equitable in all the circumstances.

(c) We shall give as much advance notice as possible of any proposed action by us under paragraph (a) and (b) above, to enable you to make alternative arrangements for the purchase of your requirements of the goods during the period of reduced or suspended delivery, and in such case you will be free to purchase from other suppliers your requirements for the goods to make good any such anticipated or actual deficiency arising as aforesaid and we shall not be bound by reason of the foregoing to acquire by purchase or otherwise additional quantities of the goods from other suppliers.

Price Variation

8. (a) If at the date of delivery of any consignment of the goods the cost to us of supplying the goods has increased in relation to such cost at the date of the contract by reason of any alteration in the cost material, fuel, power, labour, insurance, transportation, taxation, currency exchange rates or by reason of any order of any government of other competent authority, then the price of the goods included in the consignment shall be increased as we consider appropriate in all the circumstance.

(b) In the event of our notifying you that we are not able to procure steel, tinplate, or other materials of the appropriate economic dimensions, you shall have the option to cancel the contract in respect of the goods so affected or agree to defer the deliveries until suitable materials are obtainable. If you do not exercise either of these options within fourteen days of notification you will be deemed to have affirmed the contract and the price of the goods shall be that ruling at the date of despatch.

Failure to take a specified quantity

9 (a) If you fail to take or call for delivery of any goods at the time or times required by the contract we shall be entitled to invoice such goods forthwith and to charge for the handling, storage and insurance of such goods from the date of delivery or disposal of the goods by us.

(b) If you fail to take or call for delivery of the goods within 30 days of the date of our invoice we shall be entitled to resell or otherwise dispose of the goods.

(c) Where quoted quantities have been agreed these quantities shall form the basis of the contract.

Right to terminate

10 (a) We shall be entitled to suspend delivery of any goods or (at our option) to cancel this contract in respect of any goods not yet delivered and any other contract between us if:-

(i) any payment is overdue; or

(ii) you shall have failed to take delivery of any goods at the due time for delivery; or

(iii) (after notice) and to the extent that the value of the goods delivered but not paid for exceeds or would exceed your credit limit with us, whether or not you are aware of such limit and whether or not payment is overdue; or

(iv) you commit an act of bankruptcy or enter into any composition with your creditors; or

(v) you enter into winding-up (except a members' voluntary winding-up for the purpose of reconstruction or amalgamation forthwith carried into effect); or

(vi) you commit any other breach of your obligations to us under the contract, and without prejudice to any other right or remedy available to us we shall be entitled to invoice you for any goods manufactured or in the course of manufacture or appropriated to the contract between us.

(b) You shall not be entitled to withhold or set off payment for goods delivered for any reason whatsoever.

Conflicting Conditions

11 (a) By ordering any goods from us, you (or any principal on whose behalf you order goods) will be deemed to agree that these terms and conditions shall (and at any other terms and conditions contained on or in any letter, order form, receipt or other document received by us in connection with the goods so ordered shall not) be incorporated as the terms and conditions of any order or contract entered into by us. These terms and conditions constitute the entire understanding between us and supersede all previous agreements between us.

(b) No amendment to the terms and conditions set out herein shall be applicable unless expressly accepted by us by means of a written amendment hereto signed by a director of Emballator

(UK) Limited.

(c) The parties acknowledge that the terms and conditions set out herein have been given due consideration and that they are considered reasonable and fair by both parties.

(d) Acceptance by you of a delivery of goods shall be deemed conclusive evidence that you accept these terms and conditions.

Reservation of Title

12. Title

12.1 All goods supplied shall be at your risk from delivery.

12.2 Until you pay all debts you may owe us however arising:

12.2.1 all goods supplied by us remain our property;

12.2.2 you must store them so that they are clearly identifiable as our property;

12.2.3 you must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us and produce a copy of the policy for inspection by us at our request;

12.2.4 you may use those goods and sell them in the ordinary course of your business, but not if:

(a) we revoke that right (by informing you in writing);

or

(b) you become insolvent

12.2.5 any goods in which title has not yet passed which you do sell in the ordinary course of business shall be sold by you as principal for us. The entire proceeds of any such sale or

sales shall be held in trust by you for us and must not be mixed with any other money or paid into any overdrawn bank account and shall at all times be identified as our money.

12.3 You must inform us (in writing) immediately if you become insolvent.

12.4 If your right to use and sell the goods ends you must allow us to remove the goods.

12.5 We have your permission to enter any premises where the goods may be stored:

12.5.1 at any time, to inspect them; and

12.5.2 after your right to use and sell them has ended, to remove them, using reasonable force if necessary.

12.6 Despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.

12.7 You have no authority to make any contract on our behalf or in our name.

Law

13. This contract shall be interpreted exclusively in accordance with the laws of England and the parties submit to the non-exclusive jurisdiction of the English Courts.