

NUTMEG AND HIVE

Terms of Sale

The following terms and conditions apply to sales made by NUTMEG AND HIVE Limited, ("NAH") unless (a) NAH has quoted, acknowledged or invoiced a customer using different terms and conditions or (b) NAH expressly accepts additional or different terms in writing.

1. ACCEPTANCE AND ENTIRE AGREEMENT. The terms and conditions set forth herein shall constitute the entire agreement ("Agreement") between NUTMEG AND HIVE Limited ("NAH"), and the purchaser ("Buyer") with respect to the goods and services ("Goods"), whether new or used. In the event that NAH is acting as the sales agent of the owner of the Goods, "NAH" shall be interpreted to include the owner. IF THE TERMS AND CONDITIONS OF THIS AGREEMENT DIFFER IN ANY WAY FROM THE TERMS AND CONDITIONS OF BUYER'S ORDER OR OFFER TO BUY, THIS AGREEMENT SHALL BE CONSTRUED AS A COUNTER-OFFER AND SHALL NOT BE EFFECTIVE AS AN ACCEPTANCE OF SUCH ORDER OR OFFER. The failure of Buyer to object to the terms and conditions of this Agreement in writing prior to acceptance of delivery shall constitute Buyer's acceptance of same. No modification of, addition to, or waiver of any of the terms and conditions of this Agreement will be effective unless agreed to in writing by a duly authorized officer of NAH, and in no event shall such modifications, addition or waiver affect any rights of NAH accrued prior thereto. NAH and Buyer agree that no course of prior dealings between the parties or usage of the trade shall be relevant to give particular meaning to, supplement or qualify any of the terms and conditions hereof.

2. EXCLUSION OF WARRANTIES. Buyer understands that the Goods furnished hereunder may have been used. Buyer acknowledges that it has been given the opportunity to inspect the Goods prior to the date hereof. THE GOODS SOLD HEREUNDER, WHETHER NEW OR USED, ARE PURCHASED IN THEIR "AS IS" CONDITION AND NAH MAKES NO REPRESENTATION OR WARRANTY EXPRESSED OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER MATTER WITH RESPECT TO THE GOODS. NAH DOES NOT WARRANT THAT THE GOODS SOLD HEREUNDER CONFORM WITH ANY PLANS OR SPECIFICATIONS OR MEETS ANY REQUIREMENTS OF ANY LAWS, REGULATIONS OR ORDINANCES PERTAINING TO SAFETY OR INSURANCE REQUIREMENTS. NAH MAKES NO WARRANTY THAT BUYER WILL HOLD THE GOODS FREE OF CLAIMS OF THIRD PERSONS INCLUDING, BUT NOT LIMITED TO CLAIMS OF ALLEGED PATENT OR TRADEMARK INFRINGEMENT. Any descriptions or illustrations contained in NAH's catalogues, price lists or other advertising matter are intended merely to present a general description of the Goods and shall not form a part of this Agreement. As the end use of the Goods cannot be predetermined, NAH takes exception to any and all requirements as are or may be set forth by the Buyer or any other party with respect to the goods. In the event that the Goods require additions or modifications before they may be used, it shall be the obligation of Buyer, at its expense, to make such additions and modifications.

3. BUYER'S INDEMNITY OF NAH.

WARNING. THE GOODS SOLD HEREUNDER MAY BE DANGEROUS IF IMPROPERLY USED. THEY MAY CONTAIN HAZARDOUS CHEMICALS OR OTHER HAZARDOUS MATERIALS WHICH MAY BE HAZARDOUS TO LIFE, HEALTH OR TO PROPERTY BY REASON OF TOXICITY, FLAMMABILITY, EXPLOSIVENESS OR FOR OTHER SIMILAR OR DIFFERENT REASONS.

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NAH will not be responsible for any loss or injury resulting from defects in the Goods sold or from the subsequent use of the Goods. Buyer expressly agrees that as a condition of its purchase of these Goods, it will indemnify and hold NAH harmless of and from any and all liability which may be asserted against or incurred or suffered by NAH by virtue of any suit or claim of any kind arising out of, connected with, or resulting from the purchase, sale, use or consumption of the Goods by Buyer or any subsequent user of the goods, including but not limited to claims or suits for breach of warranty, negligence, strict liability, environmental liability, exposure to hazardous materials, alleged non-compliance of the Goods with health and safety regulations or any other law or regulation, or infringement of patent or trademark of Goods alone or in combination with any other goods, materials, products or services. Buyer shall pay any and all judgments rendered against NAH as a result of the foregoing and shall pay all costs and expenses incurred by NAH in defending any action brought against NAH as a result thereof, including attorney's fees and expenses, expert witness fees and expenses and court costs. If requested by NAH, Buyer will, at its own cost and expense, defend any and all such actions.

4. BUYER'S INSURANCE. Buyer shall not move, load, transport or otherwise handle the Goods without first having obtained insurance coverage. Such insurance shall include Workmen's Compensation, Employer's Liability, Public Liability (Bodily Injury, Property Damage and Contractual Liability) and Automobile Liability (Bodily Injury and Property Damage) insurance. Upon request, certificates of insurance evidencing the aforementioned insurance coverage shall be furnished to and shall be subject to approval by NAH. NAH shall not be required to supply goods to Buyer hereunder at anytime that the insurance coverage provided for hereunder is not in full force and effect.

5. DELIVERY AND RISK OF LOSS. Immediately after delivery, the risk for all direct and consequential damage to the goods passes to the customer. From the time of receipted delivery of the goods, any loss or damage to the goods shall be at your own risk. Any transit damage to the goods, shortages or in-correct goods supplied must be noted on the delivery consignment note at the time of delivery. Unless otherwise stated, delivery shall be ex-works where located. NAH's responsibility for damage or loss of the goods furnished hereunder ceases upon delivery of same. NAH reserves the right to make delivery in installments or to make partial shipments, and all such installments or partial shipments shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Any date of shipment stated on the face hereof is approximate only. Actual delivery may vary substantially based on factors including, but not limited to removal, availability and fabrication of parts, latent condition of the goods, acts of God, governmental regulations or export/import restrictions. In such circumstances NAH shall have the right to extend the date of delivery for a reasonable period of time after the period of delay and Buyer shall not be relieved from accepting delivery at the agreed price when the causes interfering with delivery are removed. If delivery is in instalments, delay in delivery of any instalments shall not relieve Buyer of its obligation to accept remaining deliveries.

6. BUYER'S REMEDIES. Buyer has been given the opportunity to inspect the Goods. Buyer's failure to give notice to NAH prior to shipment that the Goods do not conform to Buyer's

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order shall constitute a waiver by Buyer of all claims in respect of any nonconformity or shortage of Goods and shall be conclusive evidence that NAH has satisfactorily performed. Any notice of non conformity shall provide a detailed description of the nonconformity, and NAH shall have a reasonable time to cure.

7. NO WARRANTY. The goods and any related services are provided on an “as is” and “as available” basis, without warranty of any kind, whether written or oral, express or implied. NUTMEG AND HIVE disclaims all implied warranties, including but not limited to all warranties of title, non-infringement, merchantability and fitness for a particular purpose. NUTMEG AND HIVE does not represent or warranty that the goods will meet the customers needs or requirements, that any information obtained through use of the goods will be accurate or reliable, that use of the goods will be uninterrupted, timely, secure or free from error, or that all defects in the goods will be corrected.

8. LIMITATIONS OF NAH LIABILITY. NAH’s liability to Buyer on any claim of any kind for any loss or damage arising out of, connected with, or resulting from the Goods, whether such claim is based upon NAH’s negligence, NAH’s performance or breach hereunder, strict liability, or upon the manufacture, sale, delivery or non-delivery, operation or use of the Goods, or otherwise, shall be limited, at NAH’s option, to either the replacement of the Goods with similar Goods at the original point of delivery or the return of the sales price of the Goods with respect to which the claim is made. NAH, at its option, may require that Buyer return the Goods to NAH at Buyer’s risk and expense before Buyer shall be entitled to replacement or return of the sales price.

NAH SHALL IN NO EVENT BE LIABLE FOR THE COST OF ANY WORK DONE BY BUYER ON THE GOODS OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER SUFFERED BY BUYER OR ANYONE ELSE. Any action or remedy by Buyer arising out of this Agreement or any breach thereof must be commenced by Buyer within seven (7) days after such cause of action has accrued.

9. NAH’S REMEDIES. The rights, powers, privileges and remedies of NAH herein reserved shall be cumulative and in addition to any other or further rights, power, privileges and remedies provided in law or equity. NAH shall have the maximum period provided by law within which to pursue any remedy. A waiver by NAH or any right or remedy hereunder shall not affect any rights or remedies subsequently arising under the same or similar provisions hereof, nor shall it operate as a waiver of the provision or condition under which such rights or remedies arise. In the event Buyer fails to comply with the terms of this Agreement and fails to pay for the Goods in accordance with the terms of this Agreement, Buyer shall be liable for interest on the unpaid balance at the rate of eighteen (18%) percent per annum or the maximum legal rate, whichever is less, until payment in full is made. In addition thereto, NAH shall be entitled to recover reasonable attorneys fees and all costs of suit which may be incurred by NAH to enforce the terms and conditions of this Agreement.

10. GOVERNING LAW. This Agreement shall be construed, interpreted and enforced in accordance with the laws of England. Any actions, claims or suits (whether in law or equity) arising out of or relating to this Agreement, or the alleged breach thereof, shall be brought only in courts located in England and Buyer hereby waives its rights, if any, to bring such

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actions, claims or suits in any other courts. Buyer and NAH hereby agree to submit themselves to the jurisdiction of the courts located in England for the enforcement of this provision and for the enforcement of any judgment rendered by such courts.

11. NONASSIGNABILITY. Neither this Agreement nor any interest or obligation arising hereunder shall be assignable by Buyer without the prior written consent of NAH.

12. TAXES. Except as otherwise stated on the face hereof, Buyer shall be liable for all taxes (other than income taxes), VAT, excises and other charges (including any increases or new levies) relating to the sale, purchase, delivery, storage, manufacture, use, consumption or otherwise of the Goods.

13. PAYMENT. Unless otherwise stated in writing by NAH, full payment is required before delivery. If Buyer shall fail to pay any amount due on the Goods upon demand from NAH, NAH may defer further shipments until such payments are made, or may, at its option cancel the unshipped balance. In the event of the suspension of work on the Goods as a result of instructions of Buyer, or lack of instructions, the sales price may be increased to cover any extra expense thereby incurred by NAH. In addition, NAH shall charge Buyer for all costs of collection for past due amounts, including, without limitation, all legal expenses and costs incurred by NAH. An interest charge at the rate of 18% per annum or the maximum legal rate, whichever is less, will be assessed on all past due payments.

14. SEVERABILITY. The terms and conditions set forth on the face hereof shall be deemed severable, and if one or more such terms and conditions shall be declared void or unenforceable, the remaining terms and conditions shall nevertheless continue in effect.