

## TERMS & CONDITIONS OF SALE

### 1 Interpretation

- 1.1 In these Conditions the following expressions shall have the following meanings:
- 'Customer'** the person(s), firm or company purchasing the Goods from the Company;
- 'Company'** **The Ceramic Tile Company Limited** (reg. no. 2819433);
- 'Conditions'** the terms and conditions of sale set out in this document;
- 'Contract'** any contract between the Company and Customer for the supply of the Goods;
- 'Goods'** any goods agreed in the Contract to be supplied to the Customer by the Company (including any part of them).

### 2 Basis of Sale

- 2.1 The Contract will be subject to these Conditions to the exclusion of all other terms (including any terms which the Customer purports to apply under any purchase order or other document). No variation to these Conditions shall have effect unless agreed by the Company in writing.
- 2.2 Each order placed by the Customer shall be deemed to be an offer to purchase the Goods subject to these Conditions. No order shall be deemed accepted until a written order confirmation is issued, or (if earlier) the Goods are delivered.
- 2.3 Quotations are given on the basis that no contract will be formed until a written order confirmation is despatched by the Company. Quotations are valid for 30 days from their date (unless previously withdrawn by the Company).
- 2.4 The Customer will be responsible for ensuring the accuracy of its order, including (without limitation) the quantity and specification of the Goods required. The Customer will be responsible for the accuracy of any plans and drawings it supplies, and the Company shall have no liability for any shortages or surplus in the quantities of the Goods ordered resulting from any inaccuracy in such plans or drawings.
- 2.5 Any advice or recommendations given to the Customer by the Company, its employees and/or agents regarding the application or use of the Goods is followed or acted on entirely at the Customer's own risk, and the Company shall have no liability for such advice or recommendations.

### 3 Cancellation>Returns

- 3.1 If an order is cancelled by a Customer prior to delivery, the Company shall be entitled to withhold any deposit which has been paid and/or invoice the Customer for the full price of the Goods to cover any costs, expenses, or losses incurred by the Company as a result of such cancellation. No order may be cancelled after the Goods have been delivered to the Customer.
- 3.2 The Company shall be under no obligation to accept returns of, and give credit in respect of, any Goods which are ordered by the Customer in error, or which are surplus to the Customer's requirements.

### 4 The Goods

- 4.1 The quantity and description of the Goods shall be as set out in the Company's quotation or order confirmation.
- 4.2 Any samples of the Goods are provided for the sole purpose of giving an approximate idea of the colour and finish of the Goods, and due to the nature of the Goods, the Company cannot guarantee that the Goods will exactly match any samples.

### 5 Delivery

- 5.1 Unless otherwise agreed by the Company, delivery of the Goods shall take place at the Company's place of business.
- 5.2 Any dates specified for delivery of the Goods are estimates only, and time for delivery shall not be of the essence. The Company will not be liable for any direct, indirect or consequential loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (however caused), nor will any delay entitle the Customer to terminate the Contract.
- 5.3 The Customer will take delivery of the Goods within 60 days of the Company's notification that they are ready for delivery.
- 5.4 If the Customer fails to take delivery of the Goods when they are ready for collection, or where they are tendered for delivery by the Company, the Company may:
- (i) store the Goods until actual delivery and charge the Customer for the reasonable costs of storage and insurance; or
- (ii) dispose of the Goods as the Company, in its absolute discretion, sees fit.
- 5.5 The Company may deliver the Goods in instalments. Each instalment shall constitute a separate contract, and any claim by the Customer in relation to one instalment will not affect the Contract as a whole.

### 6 Price

- 6.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's published price list current at the date of acceptance of order.
- 6.2 The Company may, by giving notice to the Customer, increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company, or any change in the delivery requirements, quantities or specification of the Goods which is requested by the Customer.
- 6.3 Unless otherwise stated in the Company's quotation or price list, or agreed by the Company in writing, all prices are given on an ex works basis, and where the Company agrees to deliver the Goods other than at the Company's premises, the Customer shall pay the costs of transport, packaging and insurance.
- 6.4 Unless expressly stated otherwise, all prices quoted shall be exclusive of value added tax, which shall be additionally payable by the Customer.

### 7 Payment

- 7.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be paid in full at the time of placing an order, or in the case of credit approved account Customers, payment shall be due on the last working day of the month following the date of the Company's invoice for the Goods.
- 7.2 Unless the Customer is a credit approved account Customer, the Company shall be under no obligation to deliver the Goods until the price (including all applicable delivery charges) has been received in cleared funds.
- 7.3 All sums payable to the Company shall be paid in full without any set-off, retention or other deduction whatsoever.
- 7.4 All sums payable to the Company under the Contract shall become immediately due for payment upon termination of the Contract despite any other provision of these Conditions.
- 7.5 If the Customer fails to pay the Company any sum due pursuant to the Contract, the Company may at its sole discretion:
- (i) cancel the Contract or suspend further deliveries; and/or
- (ii) charge interest on the outstanding amount (both before and after any judgment) at the rate of [4%] above the base rate from time to time of the [Bank of England] from the due date until the outstanding amount is paid in full.

### 8 Risk & Title

- 8.1 Risk of damage to or loss of the Goods shall pass to the Customer:

- (i) when the Customer has been notified that the Goods are ready for collection (if delivered at the Company's premises); or
- (ii) where the Goods are being delivered other than at the Company's premises, at the time the Goods are delivered or tendered for delivery.

- 8.2 Notwithstanding the passing of risk in the Goods, ownership of the Goods shall not pass to the Customer until the Company has received in cash or cleared funds the price of the Goods and all other sums which are due to the Company from the Customer.
- 8.3 Until such time as ownership of the Goods has passed to the Customer, the Customer shall hold the Goods on a fiduciary basis as the Company's bailee, keep them safely and securely stored and identified as the Company's property and maintain the Goods in satisfactory condition.
- 8.4 The Company shall be entitled to recover payment of the price of the Goods notwithstanding that ownership of the Goods has not yet passed from the Company.
- 8.5 Until such time as ownership in the Goods passes to the Customer, the Company may at any time require the Customer to deliver up the Goods (or any part of them) and if the Customer fails to do so immediately, the Company or its agents or employees may enter on any premises where the Goods are stored to repossess the same.

### 9 Warranties & Liability

- 9.1 As the Company is not the manufacturer of the Goods, the Company gives no guarantee as to the quality of the Goods or their fitness for purpose, and the Customer shall only be entitled to such warranty or guarantee as is given by the manufacturer to the Company.
- 9.2 Where the Goods includes tiles, the Customer acknowledges that shading is an inherent characteristic of all ceramic tiles, and all tiles must be checked by the Customer for consistency in shade before fixed to a surface. Tiles should be selected at random from all boxes to achieve an acceptable blend of shades.
- 9.3 The Customer further acknowledges that all tiles may craze, and the Company gives no guarantee against, and will have no liability to the Customer in the event of, crazing.
- 9.4 Subject as expressly provided in these Conditions, all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are excluded from the Contract to the fullest extent permitted by law.
- 9.5 The Company shall not be liable for any claim based on any defect in the Goods:
- (i) if the defect in question arises from wilful damage, negligence of the Customer or any third party, failure to follow the Company's or the manufacturers instructions and/or good trade practice; and/or
- (ii) where the Goods includes tiles, once those tiles have been fixed to a surface.
- 9.6 The Company shall have no liability to the Customer in respect of any claim based on any defect in or damage to the Goods unless the Customer gives written notice of such claim to the Company and (if the defect is as a result of damage in transit) to the carrier, within three working days of delivery, or (where the defect or failure is not apparent on reasonable inspection) when the Customer discovers or ought to have discovered the defect.
- 9.7 Where a valid claim is notified to the Company by the Customer in accordance with Clause 9.6, the Company shall its option
- (i) replace the Goods (or the part in question); or
- (ii) refund the price of the Goods (or a proportionate part)
- in which case the Company shall have no further liability to the Customer.
- 9.8 The remaining provisions of this Clause 9 set out the entire financial liability of the Company (including any liability for the acts and omissions of its employees, agents and subcontractors) to the Customer in respect of any breach of its obligations under the Contract and/or any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract or from the use of the Goods (an **'Event of Default'**).
- 9.9 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.
- 9.10 Subject to Clause 9.9, the Company's entire liability in respect of an Event of Default shall not exceed the price paid for the Goods.
- 9.11 Subject to Clause 9.9, the Company shall not be liable to the Customer in respect of an Event of Default for any type of special, indirect or consequential loss (even if such loss was reasonably foreseeable) including (without limitation) loss of profit, loss of business, loss of goodwill, loss of revenue and/or loss of contract.

### 10 Force Majeure

- 10.1 The Company reserves the right to defer the date of delivery, cancel the Contract or reduce the volume of Goods delivered (in each case without liability to the Customer) if its performance of the Contract is prevented or delayed due to circumstances beyond the Company's reasonable control which shall include (without limitation) acts of God, governmental actions, war or threat of war, acts of terrorism, fire, explosion, flood, strikes or other labour disputes, restraints or delays affecting carriers or inability or delay in obtaining suitable materials.

### 11 Customer's Insolvency

- 11.1 This Clause shall apply if:
- (i) The Customer has a bankruptcy order made against him, or makes an arrangement with his creditors, or (being a body corporate) convenes a meeting of creditors, or enters into liquidation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or any similar event,
- (ii) the Customer or threatens to cease, to carry on business;
- (iii) distress or execution is levied on any property or assets of the Customer.
- 11.2 If this Clause 12 applies then the Company may cancel the Contract or suspend further deliveries without liability to the Customer, and the price for any Goods delivered but not paid for shall become immediately due and payable.

### 12 General

- 12.1 These Conditions constitute the entire agreement between the parties and supersede any previous agreement or understanding.
- 12.2 Each right of remedy of the Company under the Contract is without prejudice to any other right of remedy that the Company may have.
- 12.3 If any provision (or part thereof) of these Conditions is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 12.4 The parties hereby exclude the application Contracts (Rights of Third Parties) Act 1999 to the Contract.
- 12.5 The Contract shall be governed by English in all respects, and the parties agree to submit to the exclusive jurisdiction of the English courts.