

Wondermesh Limited (the “Seller”)

Terms and Conditions of Trading with the “Buyer”

All orders are accepted on the following Terms and Conditions of Trading.

1 General

In the event of any conflict or inconsistency between these Terms and Conditions of Trading, and the Terms of the Buyer's Order, these Terms prevail, unless otherwise agreed by the Seller in writing. No alterations to the Buyer's Order will be recognised by the Seller unless requested by the Buyer in writing and confirmed by the Seller in the same way.

2 Acceptance

No Order shall be deemed accepted by the Seller other than upon receipt of the Seller's official acknowledgment.

3 Basis of sale

3.1 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any Order submitted by the Buyer, and for giving the Seller any information relating to the goods within a sufficient time to enable the Seller to perform the contract in accordance with its terms.

3.2 The quantity, quality and description of the goods and any specification for them shall be as set out in the Seller's quotation or the Buyer's Order or in writing as agreed. The Buyer is responsible for ensuring the fitness for purpose of the goods.

3.3 Any advice or recommendation given by the Seller to the Buyer as to the storage, application or use of the goods or otherwise is followed or acted on entirely at the Buyer's own risk. The Seller shall not be liable for any such advice or recommendation.

4 Orders and specifications

4.1 The Seller reserves the right to make any changes in the specification of the goods which are required to conform with any applicable legal or regulatory requirements or, where the goods are to be supplied to the Buyer's specification, which do not materially affect their quality or performance.

4.2 No Order, which has been accepted by the Seller, may be cancelled by the Buyer except with the agreement in writing of the Seller and then only on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the costs of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of such a cancellation. Without prejudice to the foregoing and to any other rights and remedies available to the Seller, in the event of cancellation by the Buyer or any order, whether in whole or in part, the Seller reserves the right to charge a cancellation fee of 20% of the value of the order (plus Value Added Tax) which shall be payable by the Buyer within 30 days of invoice. If any deposit has been paid by the Buyer, the Seller shall be entitled to deduct the cancellation fee from the deposit paid or retain the deposit if it is less than the cancellation fee.

5 Delivery and risk

5.1 Unless otherwise stated in the Order, the price quoted includes delivery to the address specified in the Order, provided that the Seller reserves the right to make an additional charge for increase in transport costs occurring before the date of delivery.

5.2 Any time or date for delivery given by the Seller is given in good faith, but is an estimate only and the Seller shall have no responsibility for any loss or expense incurred by the Buyer as a direct or indirect result of any delay on delivery. Risk in the goods shall pass to the Buyer upon delivery of the goods to the address specified in the order.

5.3 If the Buyer fails to take delivery of the goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then without limiting any other right or remedy available to the Seller, the Seller may:

- a) Store the goods until actual delivery and charge the Buyer for the reasonable cost of storage (including insurance); or
- b) Sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the contract, or charge the Buyer for any shortfall below the price under the contract.

6 Price of goods

6.1 The price (exclusive of any applicable VAT which the Buyer shall be additionally liable to pay the Seller) is set at the date of Order but is subject to alteration by the Seller as may be necessary by statutory obligation or fluctuation in foreign exchange rates or VAT amendments or any cause whatsoever beyond the Seller's control. All prices quoted are subject to adjustment until acceptance by the Buyer, and are valid for 14 days only or until earlier acceptance by the Buyer.

6.2 The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the goods but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.

7 Terms of payment

7.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller will invoice the Buyer for the price of the goods at any time before or after delivery of the goods. The Seller and the Buyer will agree a deposit which will be payable at the time of the Order. If such a deposit is agreed, no Order will be accepted until the deposit has been paid.

7.2 The balance of the payment shall be paid by the Buyer to the Seller (less any discount given by the Seller but without any other deductions) within 30 days from the date of delivery of the goods or date of invoice, whichever is the later. The time of payment of the final price shall be of the essence of the contract. Receipts for payment will only be issued on request.

7.3 If the Buyer fails to make any payment on the due date then, without limiting any other right or remedy available to the Seller, the Seller may:

- a) Cancel the contract or suspend any further deliveries to the Buyer;
- b) Appropriate any payment made by the Buyer to such of the goods as the Seller may think fit;
- c) Charge the Buyer interest on the amount unpaid at the rate of 4% per annum above the Royal Bank of Scotland base rate from time to time, from the due date of payment until payment in full is made.

8 Damage in transit

The Seller will replace, free of charge, any goods proved to the Seller's satisfaction to have been damaged in transit provided that within 24 hours after delivery, both the Seller and the carrier have received from the Buyer notification in writing of the occurrence of the damage and also, if and so far as practicable, of its nature and extent.

9 Title to Goods

- 9.1 Notwithstanding delivery and the passing of risk in the goods, or any other provision of these Terms, the property in the goods shall not pass to the Buyer until the seller has received in cash or cleared funds payment in full of the price of the goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.
- 9.2 Until such time as the property in the goods passes to the Buyer, the Buyer shall hold the goods as the Seller's fiduciary agent and trustee, and shall keep the goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property, but the Buyer may use the goods in the ordinary course of its business.
- 9.3 Until such time as the property in the good passes to the Buyer (and provided the goods are still in existence and have not been resold), the Seller may at any time require the Buyer to deliver up the goods to the Seller and, if the Buyer fails to do so forthwith, enter on any premises of the Buyer or any third party where the goods are stored and repossess the goods.
- 9.4 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without limiting any other right or remedy of the Seller) forthwith become due and payable.

10 Force majeure

The Seller shall not be under any liability for any failure to perform any of its obligations under the Order, due to force majeure. Following notification by the Seller to the Buyer of such cause, the Seller shall be allowed a reasonable extension of time for the performance of its obligations. For the purpose of this condition "force majeure" means fire, explosion, flood, lightning, Act of God, act of terrorism, war, rebellion, riot, sabotage, official strike or similar official labour dispute, or events or circumstances outside the reasonable control of the party affected thereby.

11 Guarantee and Seller's Liability

- 11.1 For goods supplied, the Seller grants the following warranty:-

The seller warrants that the goods will correspond with their specification at the time of delivery and will be free from material and workmanship for a period of 6 months from the date of their initial use or 6 months from delivery, whichever is the first to expire. This warranty is given by the Seller subject to the following conditions.

- i. Notice in writing of any defect complained of shall be given by the Buyer to the Seller upon their appearance and in any event (a) within the above time period referred to in this clause and (b) within 14 days of first being used.
- ii. Such defects shall be found to have arisen from the Seller's faulty design, workmanship or materials
- iii. The Seller shall be under no liability in respect of any defect arising from natural shrinkage, fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the goods without the Seller's approval
- iv. The Seller shall be under no liability under the above warranty if the total price of the goods has not been paid by the due date for payment
- v. The Seller shall be under no liability under the above warranty for any loss of profit, or any other such claim, in relation to a crop failure or for any resultant loss due to the wrong use or non-compliance with the Seller's instructions or due to circumstances outside the Seller's control

The seller shall not be liable to the buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential loss, damage or compensation whatsoever (howsoever arising) which arise out of or in connection with the Contract.

- 11.2 The provisions in these Terms and Conditions of Trading set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents an/or sub-contractors) to the Buyer in respect of:-

- a) Any breach of these conditions
- b) Any use made or resale by the Buyer of any of the goods, or of any product incorporating any of the goods and
- c) Any representation, statements or act or omission including negligence arising under or in connection with the Contract

- 11.3 All warranties, conditions and others implied by statute of common law (save for the conditions implied by Section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the contract.

- 11.4 Nothing in these conditions excludes or limits the liability of the Seller:

- a) For death or personal injury caused by the Seller's negligence; or
- b) Under Section 2(3) of the Consumer Protection Act 1987; or
- c) For any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or
- d) For fraud or fraudulent misrepresentation.

- 11.5 Notwithstanding anything contained in these conditions, or the Order, the Seller's liability to the Buyer in respect of the Order in contract, delict or howsoever otherwise arising, shall be limited to the price of the goods specified in the Order.

- 11.6 Where a valid claim in respect of any of the goods which is based on a defect in the quality or condition of the goods or their failure to meet specification is notified to the Seller in accordance with these Terms, the Seller may replace the goods (or the part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the goods (or a proportionate part of the price thereof), in which case the Seller shall have no further liability to the Buyer.

12 Confidentiality

The Buyer shall keep confidential and shall not, without the prior consent in writing of the Seller, disclose to any third party any technical or commercial information which it has acquired from the Seller as a result of discussions, negotiations, and other communications between them relating to the goods and the Order.

13 Notices

A notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice

14 General

- 14.1 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same of any other provision.

- 14.2 If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

14 Applicable Law

The contract shall be governed by the laws of Scotland and the buyer agrees to submit to the non-exclusive jurisdiction of the Scottish Courts.