

Flair conditions of sale

The contractual rights which the buyer enjoys by virtue of sections 12, 13, 14 and 39 of the sale of goods act, 1893 (as amended) are in no way prejudiced by anything contained in these terms and conditions save (if the buyer is not dealing as consumer, if the contract is a contract for the supply of a service, or in the case of an international sale of goods) to the extent permitted by law.

GENERAL

- The following conditions shall apply to and be deemed to be incorporated in all contracts of sale between Flair International Limited, MI Flair Limited, or any other Midland group companies (the seller) and the party to whom a quotation is given and/or by whom an order is placed (the Buyer) and accepted by the seller.
- Unless otherwise specifically stated, all quotations are subject to acceptance within ten days from the date of issue. The prices quoted by the seller are those applicable at the date of issue and are subject to variation without notice.
- Orders are accepted only upon and subject to the seller's conditions of sale as printed herein. Unless expressly accepted in writing, any qualification of these conditions by the Buyer in any written or printed document or otherwise shall be inapplicable.
- Prices charged are those ruling at the time of despatch of the goods. Where the price of the goods is varied in accordance with this condition the prices varied shall be binding on the Buyer and shall not give the Buyer any option of cancellation.
- While the seller will endeavour to supply the exact quantities of goods ordered by the Buyer the quantity will be subject to a variance of up to (5%) five per cent plus or minus and not withstanding any such variance the Buyer shall be responsible to make payment to the seller in respect of such quantities of goods as are specified in accordance with the following: The quantities of any consignment of goods delivered under this contract shall be specified by the seller upon despatch from seller's factory or warehouse and shall be accepted by the Buyer as conclusive evidence of the quantity delivered.
- All products carry a product number and this must be clearly shown on all orders.

DELIVERY

- Any times quoted for delivery are estimates only and the Seller shall not be liable for failure to deliver within the time quoted.
- In the case of delivery by instalments, each delivery shall be regarded as a separate and independent contract. The seller reserves the right to make partial deliveries.
- The sender shall not be under any liability of whatever kind for non performance in whole or in part of its obligations under the contract due to causes beyond the control of the seller or beyond the control of the seller's supplies including but not limited to war (whether an actual declaration thereof is made or not) sabotage, insurrection, riot or other acts of civil disobedience, acts of the Buyer or a third party, failure or a delay in transportation, acts of any government regulations, judicial actions, labour disputes, strikes, embargoes, illness, accident, fire, explosion, flood, tempest or other acts of God, delay in delivering to the seller or the seller's suppliers, or shortage of labour, fuel, raw materials or machinery or technical failure, in any such event, the seller may without liability cancel or vary the terms of contract including, but not limited to, extending the time of perform-ing the contract for a period of at least equal to the time lost by reason of such causes.

- In the event of the Buyer or his agent giving delivery instructions and afterwards finding it necessary to cancel them, such cancellation can only be accepted on the terms that the Buyer accepts full responsibility to the Seller for all expenses incurred by the Seller up to the time of cancellation, and such cancellation can only be accepted prior to delivery to the Seller's carrier. The Seller's estimate of expenses incurred shall be final.
- Delivery to the Buyer shall take place at the address as indicated on the delivery instructions.
- If the Buyer fails to obtain the necessary import licence or quota allocations in time, the Seller shall have the right either to postpone delivery or to cancel this contract wholly or partially without being under any liability whatsoever to the Buyer. The Buyer shall be liable for any losses or expenses that are incurred by the Seller as a result of such failure.

PRICES, PAYMENTS

- All prices strictly net unless otherwise quoted. Custom duties, consular fees and other taxes, duties or fees charged in accordance with the laws or regulations of the country of destination or any other countries through which the goods are transported as well as any costs connected therewith shall be borne by the Buyer. The seller shall be entitled to add to the price agreed upon the amount of any tax or other government charges which the Seller must pay in respect of the goods (including without limitation Value Added Tax and import duties) such taxes or governmental charges now in effect or as may hereafter be imposed or any increase therein prior to delivery.
- Unless otherwise agreed in writing, invoices must be paid in the calendar month immediately following the month in which the goods are invoiced. The amount to be paid is the full invoice value and no settlement discount is allowed unless previously agreed between the Seller and the Buyer.
- Interest will be charged on all overdue accounts at the rate of 2% above the rate for the time being fixed by the joint standing committee of the Associated Irish Banks for personal unsecured overdrafts. Such interest to accrue from day to day and to be payable as well after as before any judgement.
- All payments received by the Seller shall first be utilised in settlement of accounts which have been outstanding longest and/or at the option to the Seller, any accumulated interest or arrears.
- No payments may be withheld nor may any counterclaims of the Buyer be set off against any payment due hereunder without the consent of the Seller.

COMPLAINTS

- Notwithstanding any of the provisions here of the Seller's liability in respect of any goods supplied to the Buyer proved to be defective shall be limited to giving the Buyer a reasonable credit or allowance in respect of such defective goods or at the Seller's opinion, to replace such goods at such address as the Buyer and Seller may mutually agree but under no circumstances shall the liability of the Seller exceed the invoice price of the goods supplied under the contract.
- Any claim in respect of goods alleged to be defective or otherwise howsoever the subject of this contract must be made in writing to the Seller within a period of seven days after delivery and the alleged defective goods must be available for inspection by the Seller. Any claim for loss or damage to goods in transit shall only be considered if pursuant to the delivery terms of the contract the goods were then

at the risk of the Seller and if such claim shall be made in writing within a period of seven days to the Seller from when in the ordinary course of events goods should have been delivered.

- No liability in respect of goods alleged to have been lost, undelivered, pilfered or damaged in transit shall be accepted by the Seller where the goods have been delivered to the Buyer before the alleged incident or where the carrier has been given as receipt for the goods. No goods shall be returned to the Seller save with its consent and the Seller's certificate as to the quality and conditions of the goods as returned shall be final and binding.
- In no case shall the Seller be liable for
 - Any adverse effect resulting from application to the goods of any process, operation or treatment unless specifically recommended or agreed to by the Seller, or
 - Any expenditure incurred by the Buyer in respect of goods alleged to be defective, or
 - Any loss of profit or any consequential or indirect loss or damage of any kind to the Buyer howsoever caused, or
 - Any goods which have been processed in any way by the Buyer or damaged after the risk in the goods has passed to the Buyer.

RETURN OF GOODS SUPPLIED

- Other than in the case of faulty merchandise or delivery of the wrong type of product, the Seller shall not accept the return of any product. The Seller reserves the right to receive back good undamaged and properly packaged product from the Buyer in exceptional circumstances only (like the closure of the Buyer due to liquidation). In such an exceptional instance the product shall be credited at original invoice price less a handling charge of 25%.

WARRANTY

- No condition if made or to be implied or is any warranty to be given or implied as to the life or wear of any of the goods supplied that they shall be suitable for any particular purpose or for use under any specific conditions notwithstanding that such purpose or conditions are made known to the Seller and no terms, conditions, guarantees, representations or understandings made by the Buyer with or by any of the Seller's salesmen, agents, employees or representatives shall be binding unless confirmed in writing by the Seller.

RESERVATION OF OWNERSHIP

- a) The property in the goods shall remain in the Seller until the Seller has received payment in full for the goods.
b) If the Buyer shall sell or otherwise dispose of the goods before payment in full has been made to the Seller, the Buyer shall in such case act on his own account and not as agent to the Seller and shall hold all monies received by him from such sale or disposal in trust for the Seller and shall on request furnish the seller with the names and addresses of the persons to whom such disposals have been made together with all necessary particulars to enable the Seller to recover any outstanding sums due from such persons.
c) So long as the property in the goods shall remain in the Seller, the Buyer shall hold the goods as bailee for the Seller and store the goods so as to clearly show them to be the property of the Seller and the Seller shall have the right without prejudice to the obligations of the Buyer to purchase the goods, to retake possession of the goods (and for that purpose to be upon any premises

occupied by the Buyer). d) Nothing in the clause shall confer any right upon the Buyer to return the goods. The Seller may maintain an action for the price notwithstanding that property and the goods shall not have vested in the Buyer.

TRANSFER OF RISK

- a) Notwithstanding that the property in the goods may not have passed to the Buyer, the Buyer shall carry all risk of loss of and damage to the goods from the time when the goods are delivered to the Buyer.
b) From when the risk of loss of and damage to the goods, commences to be carried by the Buyer shall
 - indemnify and keep indemnified the Seller against all loss of and damage to the goods and against any reduction in the resale value thereof below the price to be paid thereof by the Buyer;
 - insure and keep insured the goods in an amount at least equal to the price to be paid therefore by the Buyer; and
 - hold upon trust for the Seller absolutely all proceeds of such insurance.

ARBITRATION

- Any dispute or difference arising out of or relating to the contract or to any breach thereof which cannot be settled amicably without undue delay by the interested parties shall be referred to the arbitration in Dublin of an arbitrator to be appointed by the parties hereto or in default of appointment by the President for the time being of the Incorporated Law Society of Ireland and subject to the provision of the Arbitration Act of 1954 or any statutory modification thereof by the time being in force. The award of such arbitrator shall be final and binding on both parties.

INTERPRETATION

- Words and expressions defined in the Sale of Goods Acts, 1893, and 1980 shall when used in these terms and conditions save where the context other-wise requires bear the same meaning as therein.

DEFAULT BY BUYER

- a) If the Buyer;
 - fails to comply with any term of the contract (including stipulations as to payment);
 - commits any act of bankruptcy, makes an arrangement or composition with creditors or suffers any distress or execution; or resolves or is ordered to be wound up or has a receiver appointed; then in any such event the Seller shall have the right (without prejudice to any other remedies to cancel any uncompleted order and withhold any suspend delivery of further goods and to demand payment forthwith of all sums due by the Buyer to the Seller.
 - In the event that the Seller exercises any rights it may have to stop goods in transit because of the Buyer's financial condition, the Seller may at its option resell such goods at public or private sale without notice to the buyer and without affecting the Seller's rights to hold the Buyer liable for any loss or damage caused by breach of contract by the Buyer.

APPLICABLE IN LAW

- This contract shall be governed by and construed in all aspects (including the formation thereof and the performance thereunder), in accordance with the laws of the Republic of Ireland.

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For further information on Flair's Lifetime guarantee please visit our website www.flairshowers.com