

STANDARD BRANDS TRADING (IRELAND) LIMITED TERMS AND CONDITIONS OF PURCHASE

1. DEFINITIONS

The definitions in this condition 1 apply in these conditions.

Contract: the Order and the Seller's acceptance of the Order.

Goods: any Goods agreed in the Contract to be bought by SBTI from the Seller (including any part or parts of them).

Order: SBTI's written instruction to buy the Goods, incorporating these conditions.

Seller: the person, firm or company who accepts SBTI's Order.

SBTI: Standard Brands Trading (Ireland) Limited (Co. No. 7242), a company incorporated in Ireland whose registered office is at Castlebellingham, County Louth, Eire.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.2, these conditions are the only conditions upon which SBTI is prepared to deal with the Seller and they shall govern the Contract to the entire exclusion of all other terms or conditions.

2.2 These conditions apply to all SBTI purchases and any variation to these conditions shall have no effect unless expressly agreed in writing and signed by a director of SBTI.

2.3 Each Order for Goods by SBTI from the Seller shall be deemed to be an offer by SBTI to buy Goods subject to these conditions and no Order shall be accepted until the Seller either expressly by giving notice of acceptance, or impliedly by fulfilling the Order, in whole or in part accepts the offer.

2.4 No terms or conditions endorsed upon, delivered with or contained in the Seller's quotation, acknowledgement or acceptance of order, delivery note, specification or similar document shall form part of the Contract and the Seller waives any right which it otherwise might have to rely on such terms and conditions.

3. QUALITY AND DEFECTS

3.1 The Goods shall be of the best quality, material and workmanship, be without fault and conform in all respects with the Order and specification supplied or advised by SBTI.

3.2 SBTI's rights under these conditions are in addition to the statutory conditions implied in favour of SBTI by the Sale of Goods Act 1979.

3.3 If any of the Goods fail to comply with the provisions set out in condition 3 SBTI shall be entitled to avail itself of any one or more remedies listed in condition 9.

4. INDEMNITY

The Seller shall keep SBTI indemnified in full against all direct, indirect or consequential liabilities, loss, damages, injury, costs and expenses (including legal and other professional fees) awarded against or incurred or paid by SBTI as a result of or in connection with: (a) defective quality, materials or workmanship; (b) infringement or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the Goods; or (c) any claim made against SBTI in respect of any liability, loss, damage, injury, cost or expense sustained by SBTI's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the terms of the Contract by the Seller.

5. DELIVERY

5.1 The Seller shall deliver or shall procure that the Goods are delivered, carriage paid, to SBTI's place of business or to such other place of delivery as is specified in the Order or as otherwise notified by SBTI in writing prior to delivery. The Seller shall off-load the Goods at its own risk as directed by SBTI.

5.2 The date for delivery shall be specified in the Order, or if no such date is specified then delivery shall take place within 28 days of the Order. Unless otherwise stipulated by SBTI in the Order, deliveries shall only be accepted by SBTI in normal business hours.

5.3 The Seller shall ensure that each delivery is accompanied by a delivery note which includes the Order number, date of Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.

5.4 Time for delivery shall be of the essence.

5.5 If the Goods are not delivered on the due date then, without prejudice to any other rights which it may have, SBTI reserves the right to: (a) cancel the Contract in whole or in part; (b) refuse to accept any subsequent delivery of the Goods which the Seller attempts to make; (c) recover from the Seller any expenditure reasonably incurred by SBTI in obtaining the Goods in substitution from another supplier; and (d) claim damages for any additional costs, loss or expenses incurred by SBTI which are in any way attributable to the Seller's failure to deliver the Goods on the due date.

5.6 If the Seller requires SBTI to return any packaging material the Seller must clearly state so on any delivery note delivered to SBTI and SBTI shall return any such packaging material at the Seller's cost.

5.7 Where SBTI agrees in writing to accept delivery by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless failure by the Seller to deliver any one instalment shall entitle SBTI at its option to treat the whole Contract as repudiated.

5.8 If the Goods are delivered to SBTI in excess of the quantities ordered, SBTI shall not be bound to pay for the excess and any excess shall be and shall remain at the Seller's risk and shall be returnable at the Seller's expense.

5.9 SBTI shall not be deemed to have accepted the Goods until it has had 14 days to inspect them following delivery. SBTI shall also have the right to reject the Goods as though they had not been accepted for 14 days after any latent defect in the Goods has become apparent.

6. RISK/PROPERTY

The Goods shall remain at the Seller's risk until delivery to SBTI is complete when ownership of the Goods shall pass to SBTI.

7. PRICE AND PAYMENT

7.1 The price of the Goods shall be stated in the Order and unless otherwise agreed in writing by SBTI shall be exclusive of value added tax but inclusive of all other charges. No variation in the price or extra charges shall be accepted by SBTI.

7.2 The Seller shall invoice SBTI upon despatch of the Goods to SBTI. SBTI shall pay the price of the Goods within 30 days of delivery of the Goods to SBTI, but time for payment shall not be of the essence of the Contract.

7.3 Without prejudice to any other right or remedy, SBTI reserves the right to set off any amount owing at any time from the Seller to SBTI against any amount payable by SBTI to the Seller under the Contract.

7.4 If any sum under the Contract is not paid when due then, without prejudice to the parties' other rights under the Contract, that sum shall bear interest from the due date until payment is made in full at 2% per annum over Lloyds Banking Group's base rate from time to time. The Seller is not entitled to suspend deliveries of the Goods as a result of any sums being outstanding.

8. TERMINATION

8.1 SBTI shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Seller written notice whereupon all work on the Contract shall be discontinued and SBTI shall pay to the Seller fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.

8.2 SBTI shall have the right at any time by giving written notice to the Seller to terminate the Contract immediately if: (a) the Seller commits a material breach of any of the terms and conditions of the Contract; (b) any distress, execution or other process is levied upon any of the Seller's assets; (c) the Seller has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Seller or notice of intention to appoint an administrator is given by the Seller or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the Seller's winding-up or for the granting of an administration order in respect of the Seller, or any proceedings are commenced relating to the Seller's insolvency or possible insolvency; (d) the Seller ceases or threatens to cease to carry on its business; or (e) the Seller's financial position deteriorates to such an extent that, in the opinion of SBTI, the Seller's capability adequately to fulfil its obligations under the Contract has been placed in jeopardy.

8.3 The termination of the Contract, however arising, shall be without prejudice to the rights and duties of SBTI accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

9. REMEDIES

Without prejudice to any other right or remedy which SBTI may have, if any Goods are not supplied in accordance with, or the Seller fails to comply with, any of the terms of the Contract, SBTI shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by SBTI: (a) to rescind the Order; (b) to reject the Goods (in whole or in part) and return them to the Seller at the Seller's risk and cost on the basis that a full refund for the Goods so returned shall be paid immediately by the Seller; (c) at SBTI's option to give the Seller the opportunity at the Seller's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled; (d) to refuse to accept any further deliveries of the Goods but without any liability to the Seller; (e) to carry out at the Seller's expense any work necessary to make the Goods comply with the Contract; and (f) to claim such damages as may have been sustained in consequence of the Seller's breach or breaches of the Contract.

10. GENERAL

10.1 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

10.2 Condition headings do not affect the interpretation of these conditions.

10.3 SBTI reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume of the Goods ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond its reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers.

10.4 The Seller shall not be entitled to assign the Contract or any part of it without the prior written consent of SBTI. SBTI may assign the Contract or any part of it to any person, firm or company.

10.5 Each right or remedy of SBTI under the Contract is without prejudice to any other right or remedy of SBTI whether under the Contract or not.

10.6 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

10.7 Failure or delay by SBTI in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract. Any waiver by SBTI of any breach of, or any default under, any provision of the Contract by the Seller shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

10.8 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

10.9 This Contract shall be governed by and construed in accordance with English law, and the parties submit to the exclusive jurisdiction of the English courts.

Standard Brands Trading (Ireland) Limited
January 2010