

av745 Limited Terms and Conditions of Trading

TRADING CONTRACT WITH av745 LIMITED

Orders are only accepted subject to the trading contract of av745 Limited hereinafter called the "Supplier"; as detailed below. Purchasers of supplier goods will on accepting delivery, be deemed to have agreed that any printed conditions on their orders or other documents shall only be binding where they are not at variance with these terms and conditions. Any Buyer who objects to these terms below must, whereupon the order shall be deemed to be cancelled unless any proposed variation is accepted in writing by a Director of the Supplier.

1. PRICES

Prices charged will, unless otherwise specified, be those ruling at the date of order acceptance. Quantity rates will only apply to each individual order and each delivery. Orders and deliveries may not be aggregated to obtain quantity rates. Prices quoted are exclusive of Value Added Tax. All prices quoted and charged are subject to payment made within these terms and in the event of payment being overdue by sixty days or more than such prices are liable to recalculation at the Supplier's retail prices ruling in its price list current at the end of sixty days.

2. ORDERS

All orders shall be subject to the Purchasers credit worthiness as determined by the Supplier. From time to time, upon request by the Supplier the Purchaser shall furnish the Supplier with such financial information requested by the Supplier as will enable the Supplier to evaluate the Purchasers financial status. The Supplier at its sole discretion limit, modify or cancel the credit of the Purchaser both as to time and amount, and the Supplier shall have the right to cancel any orders placed by the Purchaser or refuse or delay shipment if the Purchaser shall fail to meet payment schedules or other credit financial requirements established by the Supplier from time to time. Such cancellation, refusal or delay shall not constitute termination or breach of any order, contract or agreement by the Supplier.

3. SHIPMENT

Shipment will only be made by the method of the Suppliers choice unless otherwise agreed and be made only to any of the Purchaser's permanent business address. Every effort will be made to effect delivery on the dates or to any programme of dates agreed but no guarantee of delivery dates can be given and time is not of the essence of the contract for delivery. Failure in any one delivery shall not invalidate the contract as to the remaining deliveries, if any.

4. PAYMENTS

4.1 The time within which the Buyer is to pay for the goods shall be of the essence of this contract and in the event that the Buyer shall fail to make payment by the due date all sums due to the Seller from the Buyer under this or any other contract for the supply of goods shall forthwith become due and payable to the Seller.

4.2 All accounts are payable on demand. In the absence of demand payment in full for the goods supplied shall be made by the Buyer to the Seller on or before the last day of the month next succeeding the month in which the Sellers invoice is dated. In the event of payment being made by cheque such payment shall not be deemed to have been made until such cheque be honoured. The Seller reserves the right to charge the Buyer the costs levied by the Sellers bank for the processing of cheques that require re-presentation or remain unpaid. Such costs to be as published from time to time by Lloyds TSB bank plus 25% administration fee.

4.3 The Seller shall be entitled to charge interest at the rate of 3% over bank base rate per annum, pro rata upon all overdue balances.

4.4 The Seller shall be entitled to charge interest at the rate of 3% over bank base rate per annum, pro rata upon the price of any goods of which the Buyer has failed to take delivery, from the date upon which delivery was due until the date of actual delivery or other disposal of the goods by the Seller.

4.5 The Buyer shall not be entitled to withhold, suspend or set off payment for goods delivered for any reason whatsoever.

5. TITLE TO THE GOODS

As long as there remains outstanding by the Purchaser to the Seller any monies or other liabilities whatsoever or until title to goods is in terms relinquished to the Purchaser by the Supplier by writing under the personal hand of a Director of the Supplier:

- a) The goods comprised in the order remain the Supplier's property and the Supplier reserves the right to dispose of the goods or any of them. Risk passes from the Supplier to the Purchaser on delivery.
- b) The Supplier may repossess and for this purpose follow or trace the goods at any time from the Purchaser, if in his possession, if the Supplier considers that the amount outstanding is in excess of the credit limit and/or is overdue for payment. The Supplier, its servants and agents may enter the Purchaser's premises where the Supplier has reason to believe any of the goods are situated.
- c) The Buyer as bailee undertakes to keep the goods safe and in good order and condition and clearly identified as the Supplier's property.
- d) Should the Buyer have passed the goods or any of them to a third party (or have incorporated them in work for a third party) this will be deemed to have been as the Supplier's agent only and any sums received by the Buyer in respect of such work shall be held in trust for the Supplier until all sums due to the Supplier are discharged.
- e) Upon the commission of an act of bankruptcy by any individual Buyer the immediate right to possession of the goods shall forthwith automatically revert in the Supplier.
- f) All costs including legal fees occasioned in the recovery of goods shall be paid by the Buyer.

6. WARRANTY

All product warranty applies only to the first customer purchase from the Supplier and where the goods are covered by a warranty the terms of such warranty shall be deemed to be part of these conditions.

The Supplier warrants all goods to be free from defects in material and workmanship under normal use provided the goods have been operated in accordance with the instruction manual. The commencement date of all warranties is the date of delivery to the Customer from the Supplier. The Supplier makes no other warranty express or implied with respect to goods, their marketability, quality or fitness for any particular use or purpose in particular but without prejudice to the general provisions of these conditions no responsibility is assumed or incidental or consequential damages by reason of any warranty express or implied.

7. CLAIMS

Claims may be made subject to the Purchaser

- a) Examining the goods on their delivery for any obvious damage or shortage and reporting any damaged or short delivery in writing to the Supplier and the carrier within five days of the delivery date.
- b) Reporting non-delivery by telephone and confirmed in writing to the Supplier within five days of the invoice date or expected delivery date.

If the Purchaser fails to give notice or to report in accordance with these terms or shall deal with goods in any manner or if there shall be any conduct by the Purchaser inconsistent with rejection of the goods, then the goods of the quality specified in the contract shall be deemed to have been delivered to the Purchaser. No claim or rejection properly made pursuant to these conditions of sale in respect of any part delivery of goods shall be a ground for cancellation of the contract or order.

8. RETURNS

Returns for credit are only permitted with the Supplier's prior consent in writing. Such returns must be sent to the Supplier freight pre-paid in an unused condition, quoting all relevant invoice numbers. A re-stocking charge may be made of 20% of the invoice value. However, a higher rate may apply if re-packing or re-cartoning is necessary.

9. RIGHT OF CANCELLATION BY av745 LIMITED

Right of cancellation by av745 Limited will become operable if the Buyer should fail to meet his obligations as they fall due for any reason or if any distress shall be levied upon the Buyer's property or if the Buyer shall commit an act of bankruptcy or being a Limited Company any resolution or petition to wind up its business shall be passed or presented (excepting winding up for the purposes of reconstruction) or if a receiver of such company's undertaking property or assets shall be reimbursed for any fair and reasonable costs occasioned due to such cancellation.

9.1 If the Buyer shall at any time cancel this contract or refuse to accept delivery of the goods, the Buyer shall be liable to the Seller for the total contract price in respect thereof, subject to credit in such sum (net of the costs of sale or other disposal) as the Seller may realise in selling or otherwise disposing of the goods elsewhere.

10. FORCE MAJEURE

The Supplier shall not be responsible or liable for its failure to perform its obligation if such failure is beyond the control of the Supplier, whether caused by acts of God, unavailability or shortages of material or energy necessary to produce or deliver goods by usual modes of transportation, fire, flood, war, embargo, strikes, labour disputes, explosions, riots, of laws, rule, regulations, restrictions or orders of any governmental authority, or any other cause, other than financial, beyond the control of the Supplier or its suppliers.

11. RELATIONSHIPS

Relationship is that of the Seller and the Buyer, and neither the Supplier or the Buyer nor any of their employees, customers or agents shall be deemed to be the representative, agent or employee of the other for any purpose whatsoever nor shall any of them have the right or authority to assume or create an obligation of any kind or nature, express or implied, on behalf of the other nor to accept service of any legal process addressed to or intended for the other, nor to pledge the others credit. The Buyer warrants and represents that there is no legal impediment preventing acceptance of these terms and that the acceptance of these has been authorised and that the obligations hereunder do not conflict with or violate any terms or conditions of any other agreement or commitment by the Buyer.

12. ARBITRATION

Arbitration in the event of any dispute not settled by the parties shall be submitted in London in accordance with and subject to the provisions of the Arbitration Act 1950 (or any amendment or re-enactment thereof) currently in accordance with English law including statute law.

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