

General Conditions of Sale of La Farga Tub SLU

1. APPLICATION OF CONDITIONS.

Orders are accepted only upon and subject to the following standard conditions of sale. Unless expressly accepted in writing, any qualifications of these conditions contained in any written or printed document of the Buyer shall be deemed to be inapplicable.

2. DELIVERIES.

Where a period for delivery is named in our Acknowledgement of Order, the Buyer can normally expect to take delivery within that period. Where a period of delivery is extended with or without the prior knowledge of the Buyer, or under the provisions of Clause 3 hereof, the Buyer shall take delivery and lateness shall not be accepted as a reason for refusal. Any period or date for delivery named by the Seller is an estimate only, and the Seller shall not be liable for the consequences of any delay as time of delivery is not of the essence of the contract. The goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

3. SUSPENSION OF DELIVERIES.

If events beyond the reasonable control of the Seller or the Buyer including force majeure, strikes, lockouts, trade disputes, shortage of raw materials, and Government action, prevent the manufacture, delivery or acceptance of the goods, delivery may be suspended and the Seller or Buyer shall immediately give notice in writing to the other party, and the original time for delivery shall be extended by the period of any such suspension. If such suspension continues for longer than ninety days, either shall have the option to terminate the contract with regard to all goods then undelivered. Neither party shall be liable for any loss caused to the other party by such suspension or termination except that where the Seller has incurred expenditure due to the special nature of the Buyer's order, the Seller shall be reimbursed for such expenditure.

4. PRICE.

The price of the goods shall be the Seller's quoted price or where not price has been quoted (or a quoted price is no longer valid) the Seller's standard price at the date of order. The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the goods to reflect any increase in the costs of the Seller (such as alteration of duties, increase in the cost of the goods or deliveries or change in delivery dates, quantities or specification of the goods). The price of the goods is inclusive of delivery but exclusive of applicable value added tax which the Buyer shall be additionally liable to pay to the Seller.

5. GOODS SOLD FOB.

Where goods are sold FOB the responsibility of the Seller shall cease immediately when the goods are placed on board ship or other conveyance, and the Seller shall be under no obligation to give the Buyer notice specified in Section 32(3) of the Sale of Goods Act 1979.

6. TERRITORY

The customer undertakes the products he buys to LFT cannot be sold in Spain without a written permission.

7. LOSS OR DAMAGE IN TRANSIT.

No claim in respect of loss or damage in transit, or shortage of delivery will be entertained by the Seller, unless a separate notice in writing has been given to the Carrier and to the Seller within three days of the receipt of the goods, and in the case of loss of goods, notice in writing is given to the Carrier and to the seller and a complete claim is made within 2 days of the date of consignment. Goods accepted without being checked must be signed for "unexamined" on the Carrier's delivery document.

8. CLAIMS IN RESPECT OF SHORT OR OVERWEIGHT.

Unless claims for short weight not falling under Clause 6 are made in writing to the Seller within 2 days of receipt of the goods, the Seller shall not in any event be liable therefore. Delivery by the Seller of the wrong quantity of goods shall not entitle the buyer to reject more of the goods than any between 5% and 10% does not constitute a case for rejection.

9. SPECIFICATIONS.

Where specifications are to be supplied, the Buyer shall supply such specifications in reasonable time to enable the Seller to complete delivery within the period named and indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with an infringement of a third party's intellectual property rights which results from the Seller's use of the Buyer's specification.

10. WARRANTIES AND LIABILITY.

10.1 Subject to the conditions set out below the Seller warrants that the goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of delivery.

10.2 The above warranty is given by the Seller subject to the following conditions:

10.2.1 the Seller shall be under no liability in respect of any defect in the goods arising from any drawing, design or specification supplied by the Buyer:

10.2.2 the Seller shall be under no liability in respect of any defect arising from 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:

10.2.3 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the goods has not been paid at the due date for payment:

10.3 Subject as expressly provided in these conditions and subject to the Seller's Guarantee all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

10.4 Any claim by the Buyer which is based on any defect in the quality or condition of the goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 3 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within 3 days after discovery of the defect or failure. If delivery is not refused and the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the goods had been delivered in accordance with the contract.

10.5 Where any valid claim in respect of any of the goods which is based on any defect in the quality or condition of the goods or their failure to meet specification is notified to the Seller in accordance with these conditions, the Seller shall be entitled to 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), but the Seller shall have no further liability to the Buyer.

10.6 Except in respect of death or personal injury caused by the Seller's negligence, the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the goods, except as expressly provided in these Conditions.

11. BASIS OF THE SALE AND ORDERS.

11.1 The Seller's employees or agents are not authorised to make any representations concerning the goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on any such representations which are not so confirmed in writing.

11.2 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed in writing.

11.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

11.4 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative.

11.5 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information in relation to the goods within a sufficient time to enable the Seller to perform the contract in accordance with its terms.

11.6 The quantity, quality and description of and any specification for the goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

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

11.8 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 on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by the Seller as a result of cancellation.

12. TERMINATION OF CONTRACT.

If the Buyer shall make default in or commit a breach of this contract or any other of his obligations to the Seller, or if any distress or execution shall be levied upon the Buyer's property or assets, or if the Buyer shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy, or if any petition or receiving order in bankruptcy shall be presented or made against him, or if the Buyer shall be a limited company and any resolution or petition to wind up such company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a receiver of such company's undertaking, property or assets or any part thereof shall be appointed, or if the Buyer ceases or threatens to cease to carry on business, the Seller shall have the right forthwith to terminate a contract then subsisting and upon written notice of such termination being posted by him to the Buyer's last known address any subsisting contracts shall be deemed to have been terminated, without prejudice to any claim or right the Seller might otherwise become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

13. ACCEPTANCE.

No binding contract shall be deemed to have been effected by the acceptance on the part of the Buyer of a quotation or offer made by the Seller, until such contract shall have been confirmed in writing by the Seller.

14. RISK AND TRANSFER OF OWNERSHIP.

14.1 Risk of damage to or loss of the goods shall pass to the Buyer: 13.1.1 In the case of goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the goods are available for collection: or 13.1.2 in the case of goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the goods, the time when the Seller has tendered delivery of the goods.

14.2 Notwithstanding delivery and the passing of risk in the goods, or any other provision of these Conditions, 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 or which payment is then due.

14.3 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 bailee, 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 shall be entitled to re-sell or use the goods in the ordinary course of its business.

14.4 Until such time as the property of the goods passes to the Buyer (and provided the goods are still in existence and have not been re-sold), the Seller and, if the Buyer fails to do so forthwith, may to enter upon any premises of the Buyer or any third party where the goods are stored and repossess the goods.

14.5 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 monies owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

15. ARBITRATION.

Any dispute under this contract shall be referred for decision to a single arbitrator to be appointed by agreement between the Seller and Buyer or in default of agreement by the President for the time being of the Barcelona Chamber of Commerce, which reference shall be deemed to be a submission to arbitration.

16. APPLICABLE LAW.

Contracts shall be interpreted in accordance with and governed by the laws of Spain. The Buyer agrees to submit to the non-exclusive jurisdiction of their own country courts.

17. PARTIAL DELIVERIES.

These shall be permitted in all cases and each delivery shall constitute a separate contract and failure to deliver any one or more instalments in accordance with these conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the contract as a whole as repudiated.

18. TERMS OF PAYMENT.

18.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the goods on or at any time after delivery of the goods, unless the goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the goods are ready for collection or (as the case may be) the Seller has tendered delivery of the goods.

18.2 Goods supplied by the Seller on credit are due for payment on or before the end of the month following the month of invoicing (without set-off or counterclaim). If the Buyer does not meet these terms, interest and costs may be charged on overdue amounts, on a daily basis, at 4% above the UK base rate, as specified by the Bank of England. Should any Buyer become overdue on his account ALL goods supplied on credit become immediately due for payment on demand, overriding any previous credit arrangements and the Seller shall be entitled to cancel all contracts or suspend further deliveries to the Buyer.

18.3 The Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the contract.

19. INTERPRETATION.

19.1 In these conditions: 'Buyer' means the person who accepts a quotation of the Seller for the sale of the goods or whose order for the goods is accepted by the Seller. 'Seller' means La Farga Tub SLU.

19.2 Any reference in these conditions to any provision of a statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time.

19.3 The headings in these conditions are for convenience only and shall not affect their interpretation.