

Terms & Conditions

1. INTERPRETATION

1.1 In these conditions:

BUYER means the person, firm or company entering into the Contract to purchase the Goods from the Company;
COMPANY means Coram Showers Limited; CONDITIONS means the standard terms and conditions of sale set out in this document; CONTRACT means the contract for the purchase and sale of the Goods; GOODS means the goods (including any instalment of the Goods or any parts for them) which the Company is to supply in accordance with these Conditions.
1.2 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.
1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. SALE OF GOODS

2.1 The Company shall sell to the Buyer the Goods in accordance with the current price list of the Company (save where agreed in writing by the Company), subject to these Conditions.
2.2 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of any such representations which are not so confirmed.
2.3 The Buyer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.
2.4 The Company reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or EC requirements or, where the Goods are to be supplied to the Company's specification, which do not materially affect their quality or performance.
2.5 If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.
2.6 No order which has been accepted by the Company may be cancelled by the Buyer except with the agreement in writing of the Company and the Buyer shall indemnify the Company in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by the Company as a result of cancellation.

3. PRICE

3.1 The price of the Goods shall be the price listed in the Company's published price list current at the date of acceptance of the order (save where agreed in writing by the Company). Where the Goods are supplied for export from the United Kingdom, the Company's published export price list shall apply. All prices quoted are valid for 30 days or until earlier acceptance by the Buyer, after which time they may be altered by the Company without giving notice to the Buyer.
3.2 All prices are exclusive of VAT.
3.3 The Company 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 cost to the Company which is due to any factor beyond the control of the Company.
3.4 Prices are inclusive of delivery to the Buyer's address in mainland Britain and in respect of deliveries in instalments, where each instalment is not less than £150 excluding VAT. Where delivery is outside Mainland Britain or in respect of any order of more than £150 excluding VAT, a delivery charge will be imposed.

4. PAYMENT

4.1 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.
4.2 The Buyer shall pay the price of the Goods within 30 days from the end of the month detailed on the Company's invoice and the Company 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. Time for payment shall be of the essence of the Contract.
4.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
4.3.1 suspend all or any further deliveries to the Buyer and in such event the Buyer shall not be released from its obligations to the Company under that or any other contract or cancel the Contract or any other contract with the Buyer and to claim damages from the Buyer for breach of contract;
4.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Buyer); and
4.3.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 4 per cent per annum above Lloyds TSB Bank plc base rate, from time to time, accruing daily until payment in full is made.
4.4 The Company may without notice set off any sums from time to time owed to the Buyer in or towards the satisfaction of all and any liabilities of the Buyer to the Company whether or not under the Contract.

5. DELIVERY

5.1 Delivery of the Goods shall be made by the Company delivering the Goods to the place agreed in the Contract.
5.2 Time for delivery shall not be of the essence unless previously agreed by the Company in writing.
5.3 The Company reserves the right to deliver in instalments and to tender a separate invoice for each instalment.
5.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the 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.
5.5 If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable control or the Buyer's fault, and the Company is accordingly liable to the Buyer, the Company's liability shall be limited to the excess, if any, of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
5.6 If the Buyer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Company's fault) then, without prejudice to any other right or remedy available to the Company, the Company may:
5.6.1 store the Goods until actual delivery and charge the Buyer for the reasonable cost of storage, including insurance; or
5.6.2 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. RISK AND PROPERTY

6.1 Risk of damage to or loss of the Goods shall pass to the Buyer at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.
6.2 Property in the Goods shall not pass to the Buyer until the Company has received in cash or cleared funds payment in full of the price of the Goods and all other goods sold or agreed to be sold by the Company to the Buyer under any other contract.
6.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Company's agent or bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and clearly identified as the Company's property. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall have a fiduciary duty to the Company to account for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
6.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been re-sold), the Company shall be entitled at any time to require the Buyer to deliver up the Goods to the Company and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods and for that purpose the Buyer hereby authorises and licences the Company, its officers, employees and agents to enter upon any land or building upon which the Goods are situated to recover those Goods.
6.5 The Buyer shall not be entitled to or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Buyer does so all moneys owing by the Buyer to the Company shall, without prejudice to any other right or remedy of the Company, forthwith become due and payable.

7. WARRANTIES AND LIABILITIES

7.1 The Company 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 Company's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Company's approval.
7.2 The Company shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer.

7.3 If the total price for the Goods has not been paid by the due date for payment the Company shall be under no liability under any warranty, condition or guarantee until the total price for the Goods has been paid.

7.4 Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

7.5 Any claim by the Buyer which is based on any defect in the quality or conditions of the Goods or their failure to correspond with specification shall, whether or not delivery is refused by the Buyer, be notified to the Company within 7 days from the date of delivery or, where the defect or failure was not apparent on reasonable inspection, within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify the Company in accordance with this Condition, the Buyer shall not be entitled to reject the Goods and the Company 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.

7.6 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 Company in accordance with these Conditions, the Company shall be entitled to replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price) but the Company shall have no further liability to the Buyer.

7.7 Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any 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 Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer and the entire liability of the Company under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

7.8 The Company shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's 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, lockouts, strikes or other labour disputes (whether or not relating to either party's workforce), import or export regulations or embargoes or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

8. INDEMNITY

8.1 If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design or specification supplied by the Buyer, the Company shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

8.1.1 the Company is given full control of any proceedings or negotiations in connection with any such claim;
8.1.2 the Buyer shall give the Company all reasonable assistance for the purpose of any such proceedings or negotiations;
8.1.3 except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Company (which shall not be unreasonably withheld);
8.1.4 the Buyer shall do nothing which would or might vitiate any policy or insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);
8.1.5 the Company shall be entitled to the benefit of, and the Buyer shall accordingly account to the Company for, all damages and costs, if any, awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
8.1.6 without prejudice to any duty of the Buyer at common law, the Company shall be entitled to require the Buyer to take such steps as the Company may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Company is liable to indemnify the Buyer under this clause.

9. INSOLVENCY OF BUYER

9.1 This clause applies if:
9.1.1 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order (or being an individual or firm) becomes bankrupt or (being a company) goes into liquidation, otherwise than for the purpose of amalgamation or reconstruction; or
9.1.2 an encumbrancer takes possession, or a receiver is appointed, of the Buyer's undertaking or any of its property or assets; or
9.1.3 the Buyer ceases, or threatens to cease, to carry on business; or
9.1.4 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
9.2 If this clause applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered, but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

10. EXPORT TERMS

10.1 In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.
10.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 11 shall (subject to any special terms agreed in writing between the Buyer and the Company) apply notwithstanding any other provisions of these Conditions.
10.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.
10.4 Unless otherwise agreed in writing between the Buyer and the Company, the Goods shall be delivered FOB the air or sea port of shipment and the Company shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.
10.5 The Buyer shall be responsible for arranging testing and inspection of the Goods at the Company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.
10.6 Payment of all amounts due to the Company shall be made by irrevocable bank transfer by the Buyer in favour of the Company and confirmed by the Company's Bank in the United Kingdom.

11. THIRD PARTY RIGHTS

Except as expressly provided in this Agreement, a person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Agreement provided that this does not affect any right or remedy of the third party which exists or is available apart from that Act.

12. GENERAL

12.1 Neither the Buyer nor the Company shall be entitled to assign the whole or any part of its rights and/or obligations under the Contract without the prior written consent of the other.
12.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may be notified to the party giving the notice.
12.3 No waiver by the Company of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
12.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected unless such provision goes to the root of the Contract.
12.5 The Conditions shall constitute the entire agreement in relation to the sale of the Goods and no modification or waiver thereof shall be valid unless made in writing expressly for the purpose and signed by an authorised officer of the Company and of the Buyer.
12.6 The Contract shall be governed by the laws of England and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.