

## **Standard Terms and Conditions of Sale - Southern Rigging Supplies**

### **Definitions**

In these Conditions, the following words shall have the following meanings:

- 1.1 "Seller" means Southern Rigging Supplies
- 1.2 "Buyer" means the person, firm or company placing an order with the Seller.
- 1.3 "Goods" mean those goods which are the subject of the Buyer's order and which are to be supplied to the Buyer by the Seller under these Conditions.
- 1.4 "Contract" means the contract for the supply of Goods formed by the Seller's acceptance of the Buyer's order.
- 1.5 "VAT" means value-added tax.
- 1.6 "Website" means the Seller's website at [www.southernrigging.co.uk](http://www.southernrigging.co.uk) or such other URL as the Seller may from time to time determine and from which Goods may be viewed or ordered.

### **Formation of Contract**

2.1 All Goods sold by the Seller are sold subject to these Conditions which shall govern the Contract to the exclusion of any other terms and shall be the sole terms and conditions of any sale by the Seller to the Buyer. No employee or agent of the Seller has the Seller's authority to vary, amend or waive any of these Conditions on behalf of the Seller and no amendment or addition to any of them shall be deemed to have been accepted unless accepted in writing by the Seller.

2.2 The Seller's employees or agents are not authorised to make any representation with regard to the subject matter of the Contract. In entering into the Contract the Buyer acknowledges that if it relies on any representation, advice or recommendation given by the Seller, its employees or agents to the Buyer as to the use of the Goods it does so entirely at the Buyer's own risk.

### **Placing and Acceptance of Orders**

3.1 Acceptance by the Seller of the Buyer's order is in all cases subject to the availability of Goods for delivery, the correct price payable for the Goods being stated on the Buyer's order and also to the meeting of certain other criteria, dependent upon the proposed payment method:

- (a) for a new credit account order, acceptance is upon opening of the account which will be subject to the satisfactory checking of information provided by the Buyer as well as credit checks with a reputable credit reference agency.
- (b) for an existing credit account order, acceptance is upon confirmation by the Seller;
- (c) for a credit card order, acceptance is upon authorisation of the credit card for payment, by the issuer of the credit card. For payments made by cheque – payment must have cleared before shipment of goods.

3.2 All Contracts accepted by the Seller following the submission of an order via email or fax shall be in the English language, unless agreed otherwise between the parties.

3.3 Acceptance by the Seller of each of the Buyer's orders brings into existence a separate legally binding contract between the Seller and the Buyer.

3.4 In the absence of any documentary evidence, acceptance is deemed to have been given by the Seller on delivery of the Goods to the Buyer's address shown in the order.

3.5 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order and specification submitted by the Buyer and for checking and ensuring the accuracy of any order acknowledgement issued by the Seller. In submitting an order to the Seller, the Buyer agrees to the Seller's checking of the information contained in the Buyer's order.

3.6 All specifications of the Goods are given by the Seller in the belief that they are as accurate as reasonably possible but are not to be treated as binding or as forming part of or incorporated by reference into the Contract.

3.7 Orders sent in confirmation of telephoned instructions should be clearly marked 'CONFIRMATION' otherwise the Seller will accept no responsibility for duplication of despatch.

## **Price of the Goods**

4.1 The price payable for the Goods shall be as stated in the Seller's price list or written quotation issued by the Seller to the Buyer relating to the Goods. All prices quoted are valid for 30 (thirty) days only or until earlier acceptance by the Buyer, after which they may be altered by the Seller without giving notice to the Buyer.

4.2 The Seller reserves the right by giving notice in writing to the Buyer at any time before delivery to increase the price for the Goods to reflect any increase in cost to the Seller which is beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuations, currency regulation, alteration of duties, significant increase in the cost of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specification which is requested by the Buyer, or which is due to any failure by the Buyer to give the Seller adequate information or instructions.

4.3 The price of the Goods is exclusive of the cost of delivery, packaging, insurance, VAT, customs duties and all other taxes, duties and expenses in respect of the Goods, all of which shall be added to the price for the Buyer's account, unless otherwise stipulated in writing by the Seller.

4.4 The Seller shall be entitled to invoice the Buyer for the price of the Goods at any time following delivery of the Goods unless the Buyer wrongfully fails to take delivery of the Goods in which event the Seller shall be entitled to invoice the Buyer for the full amount 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.

4.5 If delivery is made in instalments, each instalment may be separately invoiced, and if so, each such invoice shall be paid for when due, without regard to other instalments.

4.6 Information including prices payable for Goods on the Website is an "invitation to treat" and not a contractual offer from the Seller which the Buyer may accept. The Seller reserves the right to correct any errors in that information without any liability to the Buyer. In no circumstances will the Seller be contractually bound to supply the Buyer with Goods on the basis of any incorrect information, even if that information is repeated in the Buyer's order.

## **Delivery**

5.1 Unless otherwise agreed in writing, the Goods will be delivered to the Buyer at the address for delivery specified in the Buyer's order or otherwise agreed with the Seller (or in the absence of a specified address or agreement, to the invoice address of the Buyer).

5.2 Any delivery dates given to the Buyer by the Seller are given for guidance purposes only. Although the Seller will use all reasonable efforts to meet delivery dates, it shall not be liable to the Buyer for any loss or damage, whether direct, indirect or consequential for any delay in delivery, in whole or in part, howsoever caused.

5.3 If the Buyer refuses or fails to take delivery of the Goods on the date of delivery, the Seller will be entitled at its discretion to store the Goods at the risk of the Buyer and the Buyer shall in addition to the price payable under clause 4 pay all costs and expenses of such storage and any additional costs of carriage incurred.

5.4 All Goods must be inspected by the Buyer immediately on delivery. If any Goods are damaged or lost or if there has been short delivery, the Buyer must endorse the consignment note supplied by the carrier accordingly and submit a detailed written claim to the Seller within 2 (two) working days of delivery of the Goods. Where Goods are sold on an ex works basis, the Seller accepts no liability for Goods lost or damaged in transit. The Buyer's signature on the consignment note without any such endorsement shall release the Seller from any liability in respect of damage or loss in transit or short delivery. In the event of a valid claim in respect of the Goods (which is based on any damage to, loss in or short delivery of the Goods), the provisions of clause 11.4 shall apply.

5.5 Except as otherwise provided in these Conditions, the risk of loss or damage to the Goods shall pass to the Buyer upon delivery of the Goods.

## **Payment**

6.1 Account Holders: Unless otherwise agreed in writing, the Buyer shall make payment for the Goods in the currency of the invoice within 30 (thirty) days from the date of invoice and the Seller shall be entitled to recover the price notwithstanding that property in the Goods has not passed to the Buyer.

6.2 Non Account Holders: Unless otherwise agreed in writing, the Buyer shall make payment for the Goods upon placement of order by way of Credit / Debit Card, Cash or Cheque.

6.3 The time of payment of the price shall be of the essence of the Contract.

6.4 In the event that the Buyer falls to make payment by the due date or otherwise commits a breach of these conditions, the Seller may in its absolute discretion and without prejudice to any other rights which it may have:

6.4.1 Suspend all further deliveries or supplies to the Buyer under the contract in question or under any other contract(s) and/or terminate any such contract(s) without liability upon its part.

6.4.2 Require payment in advance for any future deliveries.

6.4.3 (in the case of non-payment on or before the due date) charge interest on the amount due on a day to day basis at an annual rate of 4% above Barclays Bank Plc base rate for the time being prevailing when the time when payment for the Goods or Services becomes due until the date of actual payment, whether before or after judgment.

## **Ownership of the Goods**

7.1 Notwithstanding delivery and the passing of risk in Goods, the Seller shall retain title to and ownership of the Goods until it has received payment in full of all sums due for all Goods supplied to the Buyer. If payments received from the Buyer are not stated to refer to a particular invoice the Seller may appropriate such payments to any outstanding invoice.

7.2 Even though title has not passed, the Seller shall be entitled to sue for the price of the Goods once payment has become due.

7.3 Until such time as property in the Goods passes to the Buyer:

(a) 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, insured and identified as the Seller's property;

(b) the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or of any third party where the Goods are stored and repossess the Goods.

7.4 If the Buyer compounds with its creditors, executes an assignment for the benefit of its creditors, has a bankruptcy order made against it or, being a company, enters into voluntary or compulsory liquidation or has an administrator or administrative receiver or receiver appointed over all or part of its assets or takes or suffers any similar action in consequence of debt or becomes insolvent or if the Seller has reasonable cause to believe that any of these events is likely to occur, the Seller shall have the right, without prejudice to any other remedies:

(a) to enter without prior notice any premises where Goods owned by it may be, and to repossess and dispose of any Goods owned by it so as to discharge any sums owed to it by the Buyer under the Contract or any other contract between the Seller and the Buyer;

(b) to require the Buyer not to resell or part with possession of any Goods owned by the Seller until the Buyer has paid in full all sums owed to the Seller under the Contract or any other contract between the Seller and the Buyer; and

(c) to withhold delivery of any undelivered Goods and stop any Goods in transit and forthwith suspend or cancel any uncompleted part of the Contract. Unless the Seller expressly elects otherwise, any Contract between it and the Buyer for the supply of Goods shall remain in existence notwithstanding any exercise by the Seller of its rights under this clause 7.

## **Return of Goods**

8.1 Goods correctly supplied in accordance with the Buyer's order may not be returned without the Seller's written consent (including where there has been duplication of orders as referred to in clause 3.8).

8.2 If such written consent referred to in clause 8.1 is forthcoming a returned goods handling charge of 15% (fifteen per cent) of the price will be made. In no circumstances will Goods which have, in the reasonable opinion of the Seller, been used be considered by the Seller for return unless there is (in the opinion of the Seller) a valid reason for such return.

## **Cancellation**

9.1 The Buyer shall not be entitled to cancel the Contract and if the Buyer purports to do so it shall indemnify the Seller for all losses, costs and expenses incurred by the Seller in relation to the Contract.

9.2 The Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer if:

- (a) there is insufficient stock to deliver the Goods ordered by the Buyer;
- (b) one or more of the Goods ordered by the Buyer was listed at an incorrect price due to a typographical error or an error in the pricing information received by the Seller from its suppliers;
- (c) the Buyer makes any voluntary arrangement with its creditors or becomes bankrupt or subject to an administration order or has an administrator appointed in respect of it or goes into liquidation;
- (d) an encumbrancer takes possession, or a receiver is appointed over any of the property or assets of the Buyer; or
- (e) the Buyer ceases or threatens to cease to carry on business; and if the Goods have been delivered in whole or in part but not paid for the price of the Goods shall become immediately due and payable.

9.3 If the Seller cancels the Buyer's order, the Seller will notify the Buyer accordingly and will re-credit the Buyer with any amounts deducted by the Seller in respect of that order as soon as possible but in any event within 30 (thirty) days of cancellation. The Seller will not be under any obligation to pay the Buyer any additional compensation for inconvenience or disappointment.

## **Export Terms**

10.1 Exported Goods shall be shipped by an International Carrier chosen by the Seller.

10.2 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 on them.

## **11 Warranties and Liability**

11.1 The Seller will make every effort to ensure that the Goods supplied will be of satisfactory quality and warrants that the Goods will be free from defects in materials and workmanship for a period of 12 (twelve) months from the date of delivery.

11.2 The Seller shall be under no liability:

- (a) in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;
- (b) 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 written), misuse or alteration or repair of the Goods without the Seller's approval;
- (c) if the total price for the Goods has not been paid by the due date for payment; or
- (d) in respect of parts or materials not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any warranty or guarantee which is given by the manufacturer to the Seller.

11.3 Any claim by the Buyer based on any defect in the quality or condition of the Goods or their failure to correspond with the agreed specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 (seven) 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 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 contract price as if the Goods had been delivered in accordance with the Contract.

11.4 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 the agreed specification) is notified to the Seller in accordance with these Conditions, the Seller shall (subject to (i) the Seller giving its prior written consent to return of the Goods; and (ii) the Buyer returning the Goods at its own expense to such location as the Seller may notify in writing with details of the invoice covering the purchase and a description of the problem) be entitled to repair or replace the Goods (or the part(s) 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.

11.5 In no circumstances shall the Seller's liability to the Buyer for any breach of warranty exceed: (a) in respect of any damage to or loss of tangible property caused by defective Goods, a total value not exceeding the value of the goods; and (b) in respect of any other loss or damage, whichever is the greater of: (i) the price paid for the Goods in respect of which the claim is made; and (ii) any sum recovered by the Seller from its own supplier (after having used all reasonable endeavours to make such recovery) in respect of the defective Goods or part thereof.

11.6 Except as provided for in these Conditions, there are no warranties, express or implied, of satisfactory quality or of fitness for a particular purpose, or of any other kind except as to title. In particular, all conditions and warranties which would otherwise be implied by statute or under the common law are hereby excluded to the fullest extent permitted by law.

11.7 The Seller shall under no circumstances be liable for loss of profits, revenue or business opportunity, whether direct or indirect, or for any other indirect, special or consequential loss (including loss of anticipated profit or third party claims) howsoever arising either from breach or non-performance of any of its obligations under the Contract or from the supply of or intended use of the Goods, even if the Seller has been advised of the possibility of such potential loss.

11.8 All recommendations and advice given by or on behalf of the Seller to the Buyer as to methods of storing, using or applying the Goods, the purposes for which the Goods may be applied and the suitability of using the Goods in any application are given for guidance only.