

## Terms and Conditions

(updated September 2019)

### DEFINITIONS

**Buyer:** The person or organisation who buys or agrees to buy the goods from the Seller.

**Conditions:** The terms and conditions of sale as set out in this document and any special terms and conditions agreed in writing by the Seller.

**Goods:** The articles which the Buyer agrees to buy from the seller.

**Seller:** Southern Ropes UK Ltd.

### 1. CONTRACTS

- a. Contracts are made and orders accepted only upon and subject to these Terms and Conditions of Sale. All other conditions are hereby excluded unless expressly accepted in writing by Southern Ropes UK Ltd (hereinafter called the "Seller").
- b. In entering into a contract with the Seller, the contracting party (hereinafter called the "Buyer") acknowledges that the contract has not been induced by any representations orally or in writing made by the Seller, its servants or agents.
- c. Any quotation, estimate or tender previously given or made by the Seller was not an offer but an intimation of the terms upon which the Seller was prepared to negotiate. The offer to contract with the Buyer made by these conditions may be accepted by the Buyer in a formal manner or may be inferred from the Buyer's acceptance of performance, in whole or in part, by the Seller. Any conditions contained in any purported acceptance by the Buyer shall be disregarded and the acceptance shall be construed as an unqualified acceptance of these conditions.
- d. 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.

### 2. PRICES

- a. Unless expressly stated otherwise by the Sellers, all prices quoted are ex works and exclude the cost of packing. Any applicable value added tax or any other sales tax or excise duties paid or payable by the Seller shall be added to the price and shall be payable by the Buyer.
- b. The Seller may, at their sole absolute discretion, accept or reject any order placed by the Buyer. The Seller may change the price of goods for future invoiced goods to the Buyer without notice.
- c. In the event of the Buyer cancelling a part of the order in accordance with the provisions of Clause 12, the Seller reserves the right to revise the price or prices quoted for goods already delivered.
- d. The contract price is, unless specifically agreed upon in writing by the Seller, payable in Pound Sterling. The Seller reserves the right to review the contract price(s) in the event of devaluation of the Pound Sterling or substantial change in the value of Pound Sterling in the foreign exchange markets.

### 3. CONDITIONS AND WARRANTIES

- a. Where samples of goods or a colour chart are provided, these are submitted only as indicative of the class, size or colour of goods quoted for and sales of goods shall not be by reference to any such samples or colour charts.
- b. Whilst all description and illustrations of the goods in catalogues, brochures, web sites and price lists provided by the Seller have been carefully prepared, they are intended nevertheless for general guidance only and do not form part of any contract for sale of goods and no responsibility is accepted for any errors or omissions therein or for any loss or damage resulting from reliance on such descriptions and illustrations.
- c. When the Seller agrees to provide a specially designed plan, the Buyer agrees that he is obliged to check the accuracy and suitability of the plan and that the Seller shall not be liable for any omissions or inaccuracies in the measurements given. The copyright in the plan drawn up by the Seller is, and remains, their property and may not be reproduced in whole or in part without written consent.

- d. If the Buyer claims or detects a defect in the goods, the Buyer will seek prior approval and return those goods to the Seller or, if the goods are retained by the Buyer, indemnify and keep the Seller indemnified against all liability and claims which may arise out of or incidental to the defect.
- e. The Seller has undertaken no responsibility for learning about the end purpose or use for which the goods are to be used, and the Buyer shall undertake to conduct whatever tests or examinations are necessary to confirm that goods are suitable for such end use.

### 4. DELIVERY BY THE SELLER

- a. Unless and except as otherwise expressly provided in writing by the Seller, delivery shall be F.O.B., Seller's usual place of business.
- b. Any dates quoted for delivery of the goods are approximate only and the Seller shall not be liable for any delay in delivery of the goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing.
- c. Where goods are offered for delivery to a site, the Seller's obligation is to deliver as near to the site as safe hard roads permit. The Buyer is to provide at its own expense the labour required for unloading and stacking.
- d. The Seller reserves the right to deliver goods by instalments and in such event each instalment shall be treated as a separate contract save that the delivery of further instalments may be withheld until goods contained in earlier instalments have been paid for in full.
- e. Where goods are held by the Seller awaiting delivery instructions, they may be subject to a storage charge. For account holding customers, payment for these goods must be made on or before the last day of the month following the month of the invoice; for non-account holding customers, payment must be made at the time of ordering.
- f. In the absence of shipping instructions, the issuing of an invoice shall constitute delivery to the Buyer.

### 5. COLLECTION BY THE BUYER

- a. Where goods are sold "ex-factory" the Buyer shall collect the goods at the Seller's premises within seven days of the Seller's notifying the buyers that the goods are ready for collection.
- b. If the Buyer fails to collect the goods within seven days of notification that they are ready for collection, then, without prejudice to any other right or remedy available to the Seller, the Seller may:
  - i. Store the goods until actual delivery and charge the Buyer for reasonable costs (including insurance) of storage; or
  - ii. Sell the goods at the best price readily obtainable (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.

### 6. ACCEPTANCE OF GOODS

- a. The Buyer shall be deemed to have accepted the Goods 48 hours after delivery to the Buyer.
- b. The Buyer shall carry out a thorough inspection of the Goods within 48 hours of delivery and shall give written notification to the Seller within 5 working days of delivery of the Goods of any defects which a reasonable examination would have revealed.
- c. Where the Buyer has accepted, or has been deemed to have accepted, the Goods the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.

### 7. REEL LENGTHS

- a. Where goods are sold as a measured length there may be a variation in length of plus or minus 3%. In the event of a claim the seller reserves the right to insist that the reel be returned for measuring before a settlement is agreed.

### 8. CREDIT AGREEMENTS

- a. Where the Sellers has granted the Buyer a credit facility, the price of goods and/or service shall be paid by the Buyer as per the payment terms specified on the invoice or, if the Seller shall so require under Clause (b) of this Clause 8, to be paid on demand without any period of notice.

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- b. The Seller reserves the right to withdraw or vary credit facilities at any time to the Buyer without either giving any reason for doing so, or thereby incurring any liability to the Buyer.
- c. If the Buyer takes goods from the Seller in excess of the Buyer's credit limit, the Seller may require payment on delivery for such excess of goods.

## 9. TERMS OF PAYMENT AND INTEREST

- a. Payment of the Price and VAT shall be due within 30 days of the date of the Seller's invoice
- b. Interest on overdue invoices shall accrue from the date when payment becomes due calculated on a daily basis until the date of payment at the rate of 5% per annum above the Bank of England base rate from time to time in force. Such interest shall accrue after as well as before any judgment.
- c. The Buyer shall pay all accounts in full and not exercise any rights of set-off or counter-claim against invoices submitted by the Seller.

## 10. LATE PAYMENT

- a. When payment of any of the Seller's invoices is overdue, the Seller may suspend their performance of the contracts to which the invoice relates and/or of any other contract then subsisting between the Seller and the Buyer.
- b. In the event of legal action being taken by the Seller against the Buyer for breach of payment obligations hereunder, the Buyer shall be responsible for all costs and disbursements incurred by the Seller on a full indemnity basis.

## 11. RISK AND LIABILITY

- a. Risk of damage to or loss of the goods shall pass to the Buyer at the time of delivery or, if the Buyer at the time of delivery of the goods, the time when the Seller has tendered delivery of the goods. For the purpose of this Clause 11, "delivery" shall mean the arrival of the goods at the place of delivery of the Buyer where delivery is by the Seller, or the safe loading of the goods into the Buyer's vehicles at the Seller's premises where delivery is through collection by the Buyer. In no event shall the Seller be liable for damages with respect to the sale or use of any product sold hereunder in any amount greater than the amount of the purchase price received by the Seller for that particular product. In addition, the Seller shall not be liable for any consequential, incidental, or special damages or costs or expenses in the event of any breach of warranty or in the event of any loss, damage injury or cost resulting from, or arising out of, or in respect of the goods being sold hereunder. When any goods are sold hereunder bear a particular label, trademark, or trade name, affixed at the request of the Buyer, it is the understanding of the parties that the Buyer warrants that he has the right to use said label trademark or trade name, and that he hereby agrees to indemnify and hold harmless the Seller against any loss, damage or claim by any person with respect thereto.
- b. The Buyer agrees to reimburse the Seller, and hold Seller harmless against liability for all expenses, including legal fees, incurred by the Seller that may arise in connection with Seller's enforcement of its rights under this contract.
- c. The Seller has undertaken no responsibility for learning about the end purpose for which the goods are to be used, and Buyer shall undertake to conduct whatever tests or examinations are necessary to confirm that goods are suitable for such end use.

## 12. RETENTION OF TITLE

- a. 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 for which payment is then due.
- b. 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. Until that time the Buyer shall be entitled to resell or use the goods in the ordinary course of its business, but shall account to the Seller for the proceeds of the 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.

- c. 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 resold), 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 any third party where the goods are stored and repossess the goods.

- d. 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.

## 13. CUSTOMER CANCELLATION OF ORDERS

- a. Contracts and orders and parts thereof may be cancelled only by the Seller's written acceptance of such cancellation. Where the Seller accepts such cancellation, the Seller reserves the right to charge the Buyer with the amount of any losses or expenses directly or indirectly resulting from such cancellation. Where the Seller does not accept such cancellation, the Seller, reserves the right to recover the invoice price from the Buyer and to charge the Buyer with additional losses both direct and indirect resulting from such cancellation. In any case where the Seller were required to place a deposit with a manufacturer or supplier in respect of an order, the Seller may require the Buyer to reimburse such sum in the event of cancellation.

## 14. CUSTOMERS RETURNING GOODS

- a. The seller will only accept goods being returned by customers if prior consent has been given by the seller. In the event of wishing to return goods customers must contact the seller to obtain a 'goods return note number' that must then be attached in an appropriate manner to the goods. The seller reserves the right to refuse to accept goods being returned by a buyer. In cases where the seller does agree to accept a return the seller reserves the right to charge a handling fee not exceeding 50% based on the invoice price of the goods.
- b. Excluding circumstances where goods are being returned for the reason of damage or are subject to warranty claim, goods being returned to the seller must arrive in a condition that allows them to be re-sold. In the event that returned goods are not in good condition the seller reserves the right to withdraw any agreement for credit with the buyer or to charge a handling fee.
- c. Where the buyer has requested that the rope be cut to a length. The rope can not be returned or refunded.

## 15. CONSENTS

- a. The obtaining of any necessary consents for the installation of the goods, whether from local or other authorities or for ensuring that the installation of the goods is in accordance with the provisions of any by-laws, regulations or statutes shall not be the responsibility of the Seller.

## 16. FORCE MAJEURE

- a. The Seller shall not be liable to the Buyer or be deemed to be in breach of contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the goods, if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's control:
  - b. Act of God, explosion, flood, tempest, fire or accident;
  - c. War or threat of war, sabotage, insurrection, civil disturbance or requisition;
  - d. Acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
  - e. Import or export regulations or embargoes;
  - f. Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller's or of a third party);
  - g. Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
  - h. Power failure or breakdown in machinery.

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**17. INSOLVENCY**

- a. The Seller shall have the right to terminate the contract forthwith where the buyer becomes insolvent or bankrupt or makes arrangements with its creditors or suffers a receiver to be appointed or being a body corporate enters into liquidation (other than in connection with a reconstruction or amalgamation) in any of which cases the Seller shall have no further obligation hereunder and the price for all goods delivered and work done shall become immediately due and payable.

**18. LAW APPLICABLE**

- a. These conditions shall be governed and construed in accordance with English law and all disputes arising in connection therewith shall be submitted to the jurisdiction of the English courts.

**19. GENERAL**

- a. No provision hereof shall be deemed waived and no breach or default excused unless such waiver or excuse is in writing signed by an authorised officer of the party making the writing.
- b. If any provision or part of a provision of this Agreement shall be or found by any authority or court of competent jurisdiction to be, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions or parts of such provisions of this Agreement, all of which shall remain in full force and effect.
- c. The headings in this document are inserted for convenience only and shall not constitute a part of or are referred to in its interpretation.

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