

1. General

Orders are accepted subject to the following terms and conditions and the placing of an order with Beardow & Adams (Adhesives) Limited, (B & A), is to be deemed to be acceptance of such terms and conditions by the Purchaser. No variations or modifications of, or substitution for, such terms and conditions shall be binding unless expressly accepted by B & A in writing.

2. Payment

Payment is to be received not later than the thirtieth of the month following the month of delivery. Consistent failure to meet payment in full by the due date shall result in interest being charged from the due date until the date of payment at a rate of 2½% per calendar month (APR 30%).

3. Prices

Unless otherwise agreed, the price of the goods shall be B & A list price applicable at the date of delivery of the goods or, if earlier, the date of invoice.

Unless otherwise specified, prices are ex-B & A U.K. premises, include the cost of packing the goods in accordance with B & A normal practice to protect against damage or deterioration under normal transport conditions for delivery and exclude value added tax which will be added to all invoices.

4. Delivery

Any delivery dates given by B & A are approximate only and no liability can be accepted for loss, injury, damages or expenses consequent upon any delay in delivery from any cause whatsoever, nor shall any delay entitle the customer to cancel any order or to refuse to accept delivery at any time.

5. Risk of loss

Risk of loss, deterioration and damage to the goods shall pass to the Purchaser when the goods are delivered.

6. Reception facilities

The Purchaser undertakes to accept responsibility for providing safe and sufficient facilities for the reception of the product into storage in accordance with guidelines laid down in Beardow & Adams' Health & Safety Information published from time to time and will indemnify and keep indemnified B & A against any third party claims or costs in connection therewith arising out of a breach of this condition.

7. Title to goods

Notwithstanding delivery, title to the goods shall not pass to the Purchaser until B & A has received in cash, or cleared funds, payment in full of the price of the goods and all of the goods agreed to be sold by B & A to the Purchaser for which payment is then due.

Until such time as title to the goods passes to the Purchaser, the Purchaser shall hold the goods as B & A's fiduciary agent and bailee, and shall keep the goods separate from those of the Purchaser and third parties and properly stored, protected and insured and identified as B & A's property.

Notwithstanding the above mentioned, until such time as the title to the goods passes to the Purchaser, the Purchaser shall be entitled to re-sell or use the goods in the ordinary course of its business, but shall account to B & A for the proceeds of sale, whether tangible or intangible, including insurance proceeds and shall keep all such proceeds separate from any monies or property of the Purchaser and third parties, and in the case of tangible proceeds, property stored, protected and insured.

Until such time as title to the goods passes to the Purchaser, B & A shall be entitled at any time to require the Purchaser to deliver up the goods to B & A and, if the Purchaser fails to do so forthwith, to enter upon any premises of the Purchaser or any third party where the goods are stored and to repossess the goods.

The Purchaser shall not be entitled to pledge, or in any other way encumber by way of security for any indebtedness, any of the goods which remain the property of B & A but if the Purchaser does so all monies owing by the Purchaser to B & A shall (without prejudice to any other right or remedy of B & A) forthwith become due and payable.

8. Claims

Claims will not be considered unless B & A at its registered office and its carriers are notified in writing as follows:

TOTAL LOSS OR NON-DELIVERY – within 28 days of date of despatch of goods. DAMAGE, PART LOSS OR SHORT DELIVERY – within 3 working days of receipt of the goods by the distributor or the end user whichever is the earlier.

B & A liability hereunder (including for any supply of off-grade product) is limited to the invoiced value of delivery concerned. B & A shall not be liable for any indirect consequential loss of any kind however caused.

The goods are warranted to comply at the time of delivery with the specifications referred to in B & A's order acknowledgement, or in the absence of such reference to be of normal commercial quality.

The seller shall not be liable for breach of any of the terms implied by the Sale of Goods Act 1979, relating to description, quality, fitness for purpose, or for any defects in the goods arising from faulty materials or manufacture unless the Purchaser notifies the seller in writing in accordance with Clause 8 hereof.

9. Health & Safety

The Purchaser undertakes in respect of the product to meet any duty or obligation imposed on it under appropriate European or local Health and Safety at Work regulations.

10. Notices

Any notice given under these Terms and Conditions to the Purchaser will be deemed delivered if despatched by B & A by pre-paid post and sent to the latest address of the Purchaser as quoted on the Purchaser's Order or in the Purchaser's correspondence. A notice despatched by post shall be deemed to have been received when it should in the normal course of post, certified by the Post Office, have been delivered.

11. Termination

If the Purchaser is in breach of any condition contained herein, or if in the opinion of B & A the financial stability of the Purchaser becomes impaired or unsatisfactory, B & A may, without prejudice to its other rights and remedies, terminate any agreement made pursuant to these Terms and Conditions.

If the Purchaser purports to cancel an order before delivery is made, or refuses to accept delivery of goods, the Purchaser shall be liable for the full purchase price, but credit shall be given for the amount obtained by B & A in disposing of such goods.

12. Arbitration

All questions, disputes or other differences which may at any time arise between B & A and the Purchaser in respect of any matter or thing arising out of or in relation to a Contract of Sale, including the subject matter of construction thereof, shall at the request of either party be referred to a single arbitrator to be selected by the President of the Institute of Arbitrators.

13. Validity

The illegality, invalidity or unenforceability of any part, term or provision hereof shall not affect the legality, validity or enforceability of any other provision hereof.

14. Force majeure

Neither party shall be liable for any failure to fulfil any term (other than a payment obligation) of this Agreement if fulfilment is delayed, hindered or prevented by any circumstance whatever which is not within its immediate control, including, but without limiting the generality of the foregoing, strikes, lock-outs, labour disputes of any kind, partial or general stoppages of labour, refusals to perform any kind of work (whether any of the foregoing relate to the party's own workmen or others), war, hostilities or any local or national emergency (or the threat of apprehension of any of the foregoing events), compliance with any order or request of any Community, national, provincial, port or other public authority or any person purporting to act for such authority, breakdown of or accident to plant, machinery or facilities or hindrances to transportation or failure of, or shortage in any of B & A existing or contemplated sources of supply of the Product or of raw materials and whether such failure of, or shortage be existing or apprehended by B & A. In the event of any of the foregoing circumstances arising, B & A shall be at liberty to withhold, reduce or suspend deliveries hereunder to such extent as B & A in its absolute discretion may think fit and shall in no case be bound to purchase or arrange for deliveries from any other suppliers.

15. Concessions

Any relaxation or concession that may be granted by B & A with regard to any of the terms and conditions of this Agreement shall not in any way affect or prejudice B & A strict rights hereunder. All such relaxations or concessions may be withdrawn at any time by B & A without prior notice. If there is any contradiction between the conditions of B & A and those of the Purchaser, those of B & A shall be accepted.

16. Governing law and jurisdiction

These terms and conditions shall for all purposes be governed and construed in accordance with the laws of England and B & A and the Purchaser hereby submit to the jurisdiction of the English courts.