

Terms & Conditions

FP (TOOLS) LIMITED trading as FP GROUP

CONDITIONS OF SALE

Definitions

The Company is F P (Tools) Limited trading as FP Group

The Buyer – means you, the Buyer

“Goods” – means all or any goods or articles of whatsoever nature supplied by either us or our Sub Contractors

“Notice” – means writing by post, email or fax communication
“Contract” – means the Contract made or to be made between the Buyer and the Seller subject to these conditions

1. Sellers Conditions of Sale Apply

These Terms and Conditions of Sale should apply to and govern any contractual relationship between the Seller and the Buyer to the exclusion of any condition contained on or in any order form, letter, receipt, acknowledgement or other document emanating from the Buyer. No variation of these terms and conditions shall be effective unless expressly agreed by the Seller in writing.

2. Price and Payment

- a) Unless otherwise agreed in writing, prices are those ruling at the date of dispatch.
- b) Written quotations may be subject to revision and the Seller reserves the right to increase such quote.
- c) Payment of all sums due to the Seller shall be made in full by the end of the month following the date of the invoice or shall be rendered to the Buyer (the due date) unless the Seller agrees otherwise with the Buyer in writing.
- d) Time for payment shall be of the essence and in default of payment being made by the due date, the Seller may:
 1. Suspend all further supplies under the terms of the Contract, cancel or
 2. Delay any delivery of any further goods due to the Buyer without being liable to the Buyer for damages for default.
 3. Charge interest at the rate of 6% per annum above the base rate prevailing from time to time of HSBC plc on any overdue amounts from the day following the due date until the date of payment.

3. Delivery

- a) The Seller shall notify the Buyer of the date upon which the goods will be delivered (the Delivery Date) and the Seller shall deliver the goods to the address provided by the Buyer on the Delivery Date.

- b) Any delivery date given by the Seller to the Buyer shall be an estimate only and the Seller accepts no responsibility for late delivery or failure to deliver through any cause which is beyond the control of the Seller.
- c) Unless otherwise agreed in writing, the Buyer shall be bound to accept goods ordered by him on being notified by the Seller that they are ready for delivery.
- d) If the Buyer fails to take delivery at the time required by the Contract, the Seller shall be entitled without prejudice to any other rights he may have to either treat the Contract as at an end and to re-sell the goods or alternatively to invoice the Goods whereupon payment in full shall become due forthwith. In addition, in either case the Seller may charge at rates giving an incoming return for the handling and storage of the goods from the invoice date to the eventual date of delivery to the Buyer or dispose elsewhere as the case may be and the Buyer agrees to be liable to pay any premium in respect of any insurance of such goods from the date on which the Buyer is notified that the goods are ready for delivery.
- e) If goods are contracted to be delivered by instalments, late delivery of one instalment shall not entitle the Buyer to reject any other instalment under the Contract.

4. Risk

All goods shall become the Buyer's risk as from the date of delivery to the Buyer.

5. Illustrations

Illustrations and description of products in catalogues or other descriptive material is for identification only. Such illustrations and performance criteria referred to therein do not form any part of any contract between the Buyer and Seller and are intended as a guide to the Buyer only. It is for the Buyer to satisfy itself that the product which is subject to Contract is suitable for its intended use.

6. Retention of Title

- a) Goods which are the subject of a Contract between the Buyer and Seller shall remain the sole and absolute property of the Seller as legal and equitable owner until payment of all sums due to the Seller from the Buyer on any accounts whatsoever have been received in full by the Seller.
- b) Where payment is effected by cheque the Seller shall not have received payment until that cheque has been honoured and the amount credited to the Seller's bank account.
- c) Until the property in the Goods is vested in the Buyer, in accordance with (a) and (b) above, the Buyer shall not pledge and shall not store separately and mark the Goods so that they are readily identifiable as the property of the Seller and hold the Goods as agent for the Seller.
- d) Until otherwise notified by the Seller pursuant to sub-clause (e) below, or until the happening of any of the events set out in sub-clause (f) below, the Buyer may use the Goods in the normal course of its business. However, the Seller shall be entitled to the proceeds of sale and the Buyer shall pay such proceeds of sale into a separate account or otherwise shall ensure that all such proceeds of sale are retained by or on behalf of the Buyer in a separate and identifiable form. Further, forthwith upon receipt of the proceeds of sale the Buyer shall pay to the Seller any outstanding sums to the seller and shall not use or deal with the proceeds of sale

in anyway whatsoever until all outstanding sums under a Contract between the Buyer and Seller have been paid in full.

e) The Seller shall be entitled to serve Notice on the Buyer indicating its intention to retake possession of its Goods and/or terminating the Buyer's authority to use or sell the Goods under sub-clause (d) above if the Buyer is in breach of the payment terms under this Contract. On receipt of such notice from the Seller or on the happening of any of the events set out in sub-clause (f) below: -

(i) The Buyer's authority to use or sell Goods shall forthwith cease, and

(ii) All Goods which are the property of the Seller shall be immediately delivered to the Seller, and the Seller by its employees or agents shall have the right to enter upon any land, building or vehicles of the Buyer to take possession of its Goods and any expenses incurred by the Seller including legal fees in so taking possession shall be payable by the Buyer.

f) The events referred to in sub-clauses (d) and (e) above are:

(i) Any Notice to the Buyer that a receiver or manager is to be or has been appointed over or if any encumbrance shall take possession of all or any part of its assets;

(ii) Any Notice to the Buyer that a Petition to wind up or other process to liquidate the Buyer is to be or has been presented or issued or the passing of a Resolution to wind up the Buyer (save for the purposes of a bona fide reconstruction or amalgamation);

(iii) A decision by the Buyer that the Buyer intends to make an arrangement with its creditors or to stop payment or cease or threaten to cease business or a major part thereof;

(iv) Any distress execution or other process is levied and enforced upon or sued out against any chattels or property of the Buyer.

(v) The inability of the Buyer to pay its debts as such expression is defined in the Companies Act 1985 or any statutory re-enactment thereof for the time being in force;

(vi) The commission by the Buyer of any act of Bankruptcy as defined in the Insolvency Act 1986 or any statutory re-enactment or modification thereof.

7. Limitation of Seller's Liability

(a) In any case where it is established to the satisfaction of the Seller that there has been a short delivery or that the Goods have been damaged (whether wholly or in part) prior to delivery the Seller will replace them or where the Goods have been damaged accept their return and credit the Buyer with the price thereof provided that: -

(i) Any complaint by the Buyer of short delivery of or damage to the Goods shall have been notified to the Seller immediately upon delivery and confirmed in writing within 48 hours of receipt;

(b) In any case where it is established to the satisfaction of the Seller that when delivered Goods contained some defect in quality or description the Seller may (entirely at the Seller's discretion) assign to the supplier of the Goods, failing which the Seller will: -

(i) Replace the Goods without further charge, or

(ii) Accept the return of the Goods and credit the Buyer with the price thereof, or

(iii) Make the Buyer an allowance being the difference between the value of the Goods at the time of the complaint by the Buyer and the invoice price provided that any complaint by the Buyer shall have been notified to the Seller immediately upon delivery and confirmed in writing within 48 hours thereof.

(c) In the event that the goods supplied and the events or for any of the reasons referred to in paragraphs (a) and (b) of this Condition and without prejudice to the generality of the foregoing

any implied term, condition or warranty statutory or otherwise as to the quality of the Goods sold or their fitness for any particular purpose or as their correspondence with any description or sample is hereby excluded to the fullest extent permitted by law and if any provision is held to be invalid then the remainder of these provisions shall continue to apply.

(c) The Seller shall not be bound by any Warranty or representation given by or made on its behalf unless specifically stated in writing expressly signed stating it is to be incorporated in the Contract.

(d) The Seller shall be under no liability if the Goods are not paid for by the Due Date.

(e) The Seller's entire liability shall in any event be limited to the value of the Contract.

8. Consequential Loss

Without prejudice to the generality of the foregoing provisions the Seller shall not in any event be liable to the Buyer in the Contract or tort or otherwise for any indirect or consequential loss or damage whenever or howsoever arising.

9. Seller's Right of Rescission

Any Contract the Seller has with the Buyer shall be operational upon an order by order basis. Nothing in these terms and conditions shall imply any continuous relationship between the Seller and the Buyer.

The Seller shall have the option (without prejudice to any of its other rights against the Buyer) by Notice in writing to the Buyer in rescind any Contract between the Seller and the Buyer or to suspend delivery in the following events: -

(a) Should any sum owing by the Buyer to the Seller be overdue whether under the same or any other Contract. Should the Buyer be in breach of any term of the same or any other Contract with the Seller or

(b) Should the Buyer enter into any composition or arrangement with or for the benefit of its creditors, or have a receiving order in bankruptcy made against him or (if a corporate body) should go into liquidation whether Voluntary or Compulsory or under supervision or have a Receiver appointed over all or any of its assets or if the Buyer threatens to cease trading.

10. Forbearance by Seller

No forbearance or indulgence by the Seller shown or granted to a Buyer whether in respect of these standard conditions or otherwise, shall in any way affect or prejudice the rights of the Seller against the Buyer or be taken as a waiver of any of these standard conditions.

11. Health and Safety at Work Act

Insofar as the Seller is under a duty pursuant to Section 6 of the Health and Safety at Work Act 1974 in respect of the design, manufacture and the supply of an article for use at work the Buyer shall be deemed to have been afforded by the Seller reasonable opportunity for the testing and examination of Goods prior to delivery to the Buyer in respect of their safety and any risk to health

and the Buyer shall be deemed to have been afforded by the Seller adequate information about the Goods in respect of the use for which they are designed and have been tested and of any conditions necessary to ensure that when put to use they will be safe and without the risk of health whether or not the said information has been requested by the Buyer.

12. Force Majeure

The Seller shall not be liable for failing to perform the Contract whether wholly or in part if the failure is caused wholly or in part by any circumstance or circumstances outside the Seller's control.

13. Severance

In the event that any provision of the Contract between the Buyer and the Seller is declared by any judicial or competent authority to be void, voidable, illegal, or otherwise or unenforceable then such a provision may be severed from the Contract and the remaining provisions shall remain in full force and effect.

14. Assignment

The Buyer may not assign the benefit of the Contract between the Buyer and the Seller without the prior written consent of the Seller.

All quotations are private and confidential between our two companies.

Registered Office:**F.P. (Tools) Limited. Warwick House, Tyseley Lane, Tyseley, Birmingham. B11 3PX**

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