

STANDARD TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

- 1.1 "Customer" means the customer placing an order for Goods with the Company
- 1.2 "Company" means Kimberly-Clark and its subsidiary companies, affiliates and/or trading divisions
- 1.3 "Goods" means all goods which are subject to the Company's order which are to be supplied by the Company under these terms.

2. ORDERS

- 2.1 All orders are subject to confirmations by the Company and there shall be no binding agreement between the Customer and the Company until the Customer's order has been accepted in writing by the Company or the goods despatched, whichever is earlier. Orders may not be cancelled by the Customer following such confirmation or despatch.
- 2.2 All orders placed must comply with the Company's prevailing ordering procedures.
- 2.3 All orders are accepted subject to the availability of Goods.
- 2.4 All orders are subject to the minimum quantity requirements notified to the customer from time to time by the Company.

3. PRICES

- 3.1 Unless otherwise agreed in writing the Goods shall be sold and invoiced at the Company's current prices at the date of order. Catalogues, price lists and other advertising material are provided for illustrative purposes only.
- 3.2 Prices include standard delivery costs but the Company reserves the right to make an additional charge for special deliveries which shall be notified to the Customer prior to despatch
- 3.3 Prices are exclusive of VAT and other taxes (if any) and such costs shall be payable by and invoiced to the Customer.
- 3.4 The Company reserves the right to revise prices to take into account increases in any costs of providing the Goods which occurs between the date of the order and delivery.

4. PAYMENT

- 4.1 Payment of invoices must be received by the Company in full, within 30 days from date of invoice.
- 4.2 Payment of all monies owed are expected in full and on time to the Company
- 4.3 The Customer shall not be entitled to withhold payment of any amount due to the Company in respect of any claim for damage to Goods or any alleged breach of contract by the Company, nor shall the Customer be entitled to any right of set-off
- 4.4 If the Customer makes payment without identifying the Goods in respect of which it is made, the Company may apply such payment against any sums owed to it.
- 4.5 Without prejudice to the Company's other rights if the Customer fails to pay any amount on the due date:
 - 4.5.1 the Company shall have the right to cancel any contract made with the Customer and /or to suspend deliveries.
 - 4.5.2 the Company reserves the right to charge interest on overdue accounts, either as per local legislation or at its own reasonable discretion from the due date until payment, to accrue on a day to day basis.
 - 4.5.3 the Customer shall indemnify the Company and keep it indemnified in respect of all costs (including legal fees) reasonably incurred in attempting to recover such overdue amount.
 - 4.5.4 the whole of the balance then outstanding to the Company by the Customer on any account whatsoever shall become immediately due and payable.
- 4.6 The Company reserves the right to require the Customer to pay for Goods in advance if the Customer fails to maintain credit account arrangements satisfactory to the Company

5. DELIVERY

5.1 Delivery shall take place when the Goods are unloaded at the customer's premises or, if different, the place specified in the Customer's order. The Customer shall be fully responsible for the unloading of the Goods.

5.2 Dates and times quoted by the Company for delivery are estimates only and the Company shall have no liability for any delay in meeting delivery dates.

5.3 The Company will endeavour to deliver the quantity of Goods as ordered by the Customer. The Customer may not reject the Goods or part because of short delivery.

5.4 The Company may invoice the Customer for its reasonable additional costs (including storage) arising from any variation or delay in delivery occasioned by the Customer's instructions or default. Clause 4 shall apply to such costs.

5.5 The Company may deliver the Goods by instalments and in such case each instalment shall constitute a separate order, any failure or defect in delivery of any one or more instalments shall not entitle the Customer to repudiate the order as a whole nor to cancel any subsequent instalment.

5.6 Pallets delivered with the Goods by the Company shall be kept in good condition by the Customer and shall be returned to the Company as soon as practicable and in any event, upon the demand from the Company or its agents. In the event the Customer fails to return the pallets for any reason, the Company reserves the right to invoice the Customer the appropriate charges for the pallets.

6 EXAMINATION AND CLAIMS

The Customer shall as soon as reasonably practicable following delivery, examine the Goods and shall notify the Company's Customer Service Department forthwith and in any event in writing (facsimile, electronic mail or post) within the following time period of any potential claim:-

6.1 In respect of damaged Goods or Goods not conforming to the Customer's order, within 48 hours of delivery.

6.2 In respect of a shortage in delivery within 48 hours of invoicing

Claims notified outside of the above terms will be rejected.

7. SAMPLE & DESCRIPTION

The Goods will meet their general description as shown on the delivery note but the Company may change composition, packaging, manufacturing processes and other such matters from time to time. Description on the packaging of the Goods the Company supplies shall not constitute representations of terms between the parties, and, in particular, any quantity shown on any packaging or invoice or delivery shall be interpreted for the purpose of contracts between the parties as subject to the customary tolerance.

8. WARRANTY & LIMITATION OF LIABILITY

8.1 To the fullest extent legally permissible, all conditions and warranties whether express or implied by statute, common law, trade usage or otherwise are excluded, save as set out expressly in these Terms.

8.2 The Company warrants that on delivery the Goods are reasonably free from defects in materials and workmanship.

8.3 The Company's liability under these Terms shall only arise if any claim is notified in accordance with clause 6.

8.4 Subject to Clause 8.3 The Company shall discharge in full any proven liability to the Customer arising under the warranties set out in Clause 7 or Clause 8.2 or otherwise as a result of breach of the Terms in full by replacing the Goods at its discretion and the Customer shall accept such replacement in satisfaction of any claims in may have in respect of the defects.

PROVIDED THAT if the Goods are sold by the Customer to a consumer and as a result a claim arises against the Customer, then the Company may discharge its liability by indemnifying the Customer against any court order made against it or financial settlement in favour of the consumer arising such claim in so far as it can be attributed to a breach by the Company. This indemnify shall be limited to a maximum of the price of the goods in question for each claim and be subject to the Customer:

8.4.1 co-operating with the Company in dealing with the claim.

8.4.2 keeping the Company informed of all matters relating to the claim.

8.4.3 conducting any proceedings or negotiations for settlement in accordance with the Company's instructions and.

8.4.4 allowing the Company to assume the conduct of the claim should it choose to do so.

8.5 Subject to clause 8.7 below, where the Customer suffers direct physical loss or damage which is shown to have arisen directly from a breach of these terms by the Company, then the Company's liability for such loss or damage shall be limited to a maximum of the price of the goods in question

8.6 Subject to Clause 8.7 and Clauses 8.4 and 8.5. The Company shall not be liable for any loss or damage whatsoever, whether direct or indirect (including but not limited to loss of profit and goodwill and any loss which at the time this contract was made was not a reasonable foreseeable result of the breach of warranty or conditions whether or not it was a direct and natural result of that breach) and whether arising through negligence, misinterpretation, breach of any statutory duty, or of any condition, warranty or other term (express or implied) of any contract or otherwise.

8.7 Nothing in these Terms shall limit the Company's liability arising from or in respect of any claim for death or personal injury caused by negligence of the Company, or any other liability to the extent that it cannot be limited or excluded in law.

8.8 The parties agree that the restrictions in this Clause are reasonable in light of their responsibility and the availability of insurance cover.

9. TITLE

9.1 The Company shall retain in full ownership of and title to all Goods delivered to the Customer or any part thereof unless and until the Customer has paid all sums owing to the Company.

9.2 While any amount remains outstanding to the Company from the Customer:

9.2.1 the Customer shall keep the Goods as fiduciary bailee for the Company and shall store the Goods separately from its other chattels and in a manner which clearly shows that they are owned by the Company.

9.2.2 the Customer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company.

9.2.3 the Customer will deliver up or have delivered up to the Company Goods upon demand and the Company may without limiting any other rights or remedies available to it at law in equity or by statute seize, repossess and/or re-sell goods at its discretion and in the exercise of such rights the Company may enter any premises in which it reasonably believes from time to time any Goods are located.

9.2.4 the Customer may only sell, transfer or otherwise dispose of the Goods to its customers in the ordinary course of its business and in accordance with the provisions of these Terms.

9.2.5 where the Customer is paid by or on behalf of any Customer or shall receive the proceeds of any insurance claim in respect of any Goods it shall pay such proceeds to the Company as soon as reasonably practicable to do so after receipt until the Company is paid in full and shall hold the same as trustee for the Company and keep a separate account of all such proceeds for such purpose;

9.2.6 the Customer shall take all due care (or ensure that all due care is taken) of the Goods and the Customer shall bear the sole liability for insurance of the Goods and shall indemnify the Company for any loss whatsoever suffered or incurred by the Company arising out of any failure to insure such Goods.

10 CUSTOMER'S RESPONSIBILITIES

10.1 The customer shall co-operate fully in any product hold or recall campaign organised by the Company and assist the Company in recovering affected Goods and preventing their sale to third parties

10.2 All information received by the Customer from the Company in respect of the Company's business shall be deemed to be confidential and the Customer shall not use or disclose such information without the Company's express authorisation unless it is publicly known (otherwise than by breach of obligation)

11. TRADEMARKS, PATENTS & COPYRIGHTS

11.1 The Customer recognises the Company's ownership of and title to all trademarks, service marks, trade names, patents, copyright and other intellectual property rights in relation to Goods

11.2 The Customer will take no action to violate, obliterate, remove, alter, conceal or misuse any such mark, trade name or copyright notice

11.3 The Customer will promptly notify the Company if it becomes aware of any infringement of such intellectual property rights by any third party and shall provide its reasonable assistance to the Company in connection with any resultant proceedings.

12. FORCE MAJURE

12.1 The Company shall not be liable to the Customer on any account whatsoever in the event that the Company is prevented from fulfilling its obligations hereunder due in whole or in part to an event of force majeure which expression shall mean:

12.1.1 act of God, fire, flood, storm, power failure, reduction of power supplies, mechanical failure, or lack or shortage of materials or stock or any other circumstance beyond the reasonable control of the company and:

12.1.2 whether or not within the Company's control, strikes, lock-outs or industrial disputes in relation to the Company or any other party or any action taken by the Company in connection therewith or in consequences or furtherance thereof.

12.2 In such event the Company may at its option either suspend performance or cancel the contract in question or so much of it as remains unperformed without liability or any loss and without prejudice to the Company's rights to receive payment of the price of all Goods previously delivered.

13. WAIVER

No waiver by the Company of any breach of the Customer's obligations hereunder shall constitute a waiver or any other prior or subsequent breach or obligation and the Company's rights shall not be affected by any delay, failure, forbearance or omission in enforcing any obligation of the Customer.

14 NON ASSIGNMENT

The Customer may not assign, transfer or sub-contract the benefit or burden or any order or any part without the prior written consent of the Company. The Company may assign, transfer or sub-contract the benefit of burden of any order or any part to any of its Group.

15 SEVERABILITY

15.1 If and to the extent that any provision or any part of these Terms is deemed to be illegal, void or unenforceable for any reason then such provision or part thereof (as the case may be) shall be deemed to be severed from the remaining provisions or parts of the relevant provisions (as the case may be) all of which remaining provisions shall remain in full force and effect.

15.2 In particular, should any limitation of the companies liability contained in these Terms be held illegal, void or unenforceable under any applicable statute or rule of law it shall to that extent only be deemed severed here from, but, if the Company thereby becomes liable for any loss or damage, such liability shall be subject to all other relevant limitations contained in these Terms.

16 LAW

These Terms shall be construed according to the laws of England and the Company and the Customer submit to the non-exclusive jurisdiction of the English Courts in connection with any dispute or proceeding arising out of any contract incorporating these Terms.

17. NOTICES

Unless otherwise agreed in writing, all notices required to be given by the Customer to the Company in respect of this contract shall not be effective unless in writing and sent to the Company at its registered address. Notices may also be given by fax or electronic mail, confirmed by first class post on the day of transmission.

18 HEADINGS

The headings to these terms are for convenience of reference only and shall have no effect on the construction of the Terms

<p>The provisions of this agreement will prevail unless you have any specific negotiated customer contract or agreement which override any/all of the above clauses.</p>
