

# A B Lime Limited – General Terms and Conditions of Trade

## 1. Interpretation

"we" or "us" means A B Lime Limited.

"you" means the person or entity applying for a credit account with us or placing an order for the purchase of goods from us.

"Goods" means any goods which you have ordered or purchased from us.

"Contract" means any contract between you and us comprising these general terms and conditions of trade ("Terms of Trade").

Clause headings are for reference purposes only and do not form part of these Terms of Trade.

## 2. General

2.1 You agree that these Terms of Trade shall apply to all credit facilities and all supplies of Goods (including the present supply of Goods and all future supplies of Goods) by us to you to the exclusion of any other terms and conditions, including without limitation, any terms and conditions in your documents which purport to provide that your own terms shall prevail.

2.2 We may amend these Terms of Trade from time to time by written notice to you.

2.3 We are under no obligation to accept all or any of your orders.

2.4 We reserve the right to:

- (a) supply Goods under a Contract in full or only in part; and/or
- (b) withdraw credit at any time at our sole and absolute discretion.

## 3. Delivery

3.1 Delivery of the Goods shall be deemed to be made on arrival of the Goods your property (or such other address notified to us in writing). You agree to accept delivery of the Goods at any time of day.

3.2 The quantity of any consignment of Goods as recorded by us upon dispatch from our place of business shall be conclusive evidence of the quantity received by you on delivery unless you can provide conclusive evidence proving the contrary.

3.3 Delivery of Goods to within 5% of the quantity specified in an order shall constitute fulfillment of delivery of those Goods.

3.4 Our liability for any deficiency in the quantity of Goods delivered greater than 5% of the quantity specified in an order shall be limited to an obligation to make up the deficiency within a reasonable time.

## 4. Ownership

4.1 Risk of damage to, or loss of, the Goods shall pass to you at the time of delivery or, if you fail to take delivery of the Goods, the time when we are deemed to have delivered the Goods as set out in clause 3.1.

4.2 Notwithstanding risk in the Goods passing in accordance with clause 4.1, title in the Goods shall not pass to you until we have received in full (in cash or cleared funds) all sums due to us in respect of:

- (a) the Goods; and
- (b) all other sums which are or which become due to us from you on any account.

4.3 If you wish to resell any Goods before you become the owner, you may do so only if the sale is genuine and made in the ordinary course of your business. You must then promptly account to us for the proceeds of the sale, and hold the proceeds in trust for us until you do so.

4.4 You acknowledge that:

- (a) these Terms of Trade create a security interest as defined in the Personal Property Securities Act 1999 in favour of us in any Goods and any proceeds from, and existing or future rights in relation to, such Goods as security for all amounts payable by you to us and the performance of your obligations under these Terms of Trade; and
- (b) we may at any time register a financing statement on the Personal Property Securities Register ("PPSR") to protect our security interest in the Goods. You waive any right to receive from us a copy of any financing statement, financing change statement or verification statement arising in connection with any registration made on the PPSR by us in connection with our security interest in the Goods.

4.5 While we retain ownership of Goods in your possession or under your control, you must properly store and secure the Goods, and insure the Goods for the full purchase price (and hold any proceeds of the insurance on trust for us) until the Goods are sold pursuant to clause 4.3 above or consumed in the ordinary course of your business.

## 5. Payment

5.1 The purchase price for the Goods shall be the price set out in our quotation or as notified to you in writing from time to time.

5.2 You must pay to us the purchase price for the Goods on the 20th of the month following the month of delivery of the Goods ("the Standard Due Date"), without any set-off, deduction or counter-claim.

5.3 Under no circumstances will the date for payment of the purchase price or any part thereof be deferred beyond the Standard Due Date without our prior written consent. In the event that we so consent in writing to defer the date for payment of the purchase price or part thereof to a date beyond the Standard Due Date, in consideration thereof **YOU AGREE TO PAY INTEREST TO US AT THE RATE OF TWELVE (12) PER CENT PER ANNUM CALCULATED ON THE DAILY BALANCE OF THE PURCHASE PRICE OUTSTANDING FROM TIME TO TIME COMMENCING ON THE DATE ON WHICH WE ARE DEEMED TO HAVE DELIVERED THE GOODS AS SET OUT IN CLAUSE 3.1 AND ENDING ON THE DATE ON WHICH THE PURCHASE PRICE IS PAID IN FULL.** You will pay all accrued interest to us in one lump sum payment on the due date for payment of the purchase price without set-off, deduction or counterclaim.

## 6. Payment Default

6.1 Notwithstanding any other provision herein if you fail to make any payment on the due date for payment then (without prejudice to any of our other rights and remedies) we may:

- (a) make immediate formal demand for all monies due and payable to us on any account whatsoever which monies shall then immediately fall due and payable;
- (b) **CHARGE YOU INTEREST ("PENALTY INTEREST") ON ANY AMOUNT NOT PAID WHEN DUE AT THE RATE OF 2 PER CENT PER CALENDER MONTH CALCULATED FROM THE DATE PAYMENT IS DUE UNTIL THE DATE WE RECEIVE PAYMENT IN FULL. INTEREST SHALL BE COMPOUNDED MONTHLY AND A PART OF A MONTH SHALL BE RECKONED AS A FULL MONTH FOR THE PURPOSES OF CALCULATION OF INTEREST;**
- (c) pass on to our appointed agent for the purposes of debt recovery any information we may hold regarding you or your dealings with us. You agree to pay on demand all collection costs and solicitors fees, charges and/or costs and enforcement costs incurred or expended in recovering all monies due and payable by you to us; or
- (d) exercise any and all remedies afforded to a secured party by Part 9 of the Personal Property Securities Act 1999 and enter any building or premises owned, occupied or used by you, to search for or re-take possession of the Goods and use or dispose of them for our own benefit at our sole and absolute discretion. You further agree that sections 114(1)(a), 117(1)(c), 133 and 134 of the Personal Property Securities Act 1999 shall not apply and you waive any rights that you may have under sections 116, 119, 120(2), 121, 125, 126, 127, 129 and 131 of the Personal Property Securities Act 1999.

## 7. Warranties

7.1 We warrant that the Goods supplied are free from defects. All other guarantees, warranties and representations in relation to the Goods or their supply (including those contained in the Sale of Goods Act 1908) are excluded except to the extent that we cannot lawfully exclude them.

## 8. Consumer Guarantees Act 1993

8.1 When you purchase Goods or services from us for business purposes then the guarantees and rights expressed or implied in the Consumer Guarantees Act 1993 in your favour do not apply to those Goods or services.

## 9. Limitation of Liability

9.1 **WE WILL NOT BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL LOSS HOWSOEVER INCURRED BY YOU AS THE RESULT OF ANY ACT OR OMISSION BY US.**

9.2 We will not be liable to you:

- (a) for failure to deliver by a specified date; or
- (b) for loss caused by anything which is beyond our reasonable control.

9.3 Our liability to you (whether in relation to contract, tort (including negligence), strict liability or by virtue of a breach of any statutory duty or otherwise) is otherwise limited to the value of the Goods supplied by us and associated with your claim.

9.4 We may, at our option and as appropriate, either:

- (a) replace defective Goods; or
- (b) pay you the price you paid us for the Goods.

9.5 You agree that we have no liability for any defective Goods unless:

- (a) you notify us of the defect within 14 days of your receiving the Goods; and
- (b) you allow us to fully investigate your claim and you agree, if requested, to return a sample of the Goods to us for inspection (at our cost).

## 10. Waiver

10.1 If we delay or do not exercise any of our rights or remedies under these Terms of Trade or otherwise at law, that will not be a waiver of the right or remedy.

10.2 Any waiver or consent we give you must be in writing and will be effective only in the specific instance and for the specific purpose for which it is given.

## 11. Severability

11.1 If part of these Terms of Trade is deemed to be invalid, illegal or unenforceable, the remaining provisions will remain in full force and effect.

## 12. Cancellation

12.1 We reserve the right to cancel any Contract with you, without prejudice to any rights which may have accrued up to the date of cancellation, if:

- (a) you being a body corporate go into liquidation, receivership or voluntary administration; or
- (b) being a person become bankrupt; and/or
- (c) you breach any term of these Terms of Trade or are in default of any of these terms and fail to remedy the breach or default within 7 days of receiving notice from us of the breach or default.