

# FMS Foils Group Ltd

## Conditions of Sale & Delivery

### 1. Application

Every offer, quotation, acceptance and contract for the sale or supply of packaging material (hereinafter "the Goods") by FMS Foils Group Ltd and its subsidiary companies (hereinafter "the Company") shall be subject to conditions of sale and delivery (hereinafter "the Conditions"). Furthermore the Conditions override all clauses, whether printed or not, which may be proposed by you (hereinafter "the Buyer") unless expressly accepted by the Company in writing.

### 2. Orders

Any quotation given by the Company is subject to confirmation by the Company on receipt of the Buyer's order and no contract shall be concluded until such confirmation is given or the Buyer's order is otherwise accepted. Orders placed with a salesman are subject to written acceptance by the Company. Each order when accepted constitutes a separate contract. An order once placed can be cancelled only with the Company's written consent and upon terms which will save the Company from loss.

### 3. Prices

All orders accepted are subject to the price ruling at the date of invoice. The Company reserves the right to increase prices to cover cost increases between the date of acceptance of the order and the date of invoice.

### 4. Terms of Payment

Payment in full must accompany each order, except for approved accounts. An account unpaid by the Buyer after 30 days will be regarded as overdue and all balances owing to the Company by the Buyer will become due for settlement forthwith. Time for payment being of the essence, the Company may treat any contract, on which payment is overdue, as repudiated or it may affirm such contract as its option. Furthermore the Company may repudiate any contract, subsisting between itself and the Buyer, or suspend performance of any such contract until all payments have been made. Similarly where the Buyer becomes insolvent or goes into liquidation all balances owing to the Company will become due for settlement forthwith and the Company shall be entitled to repudiate any contracts subsisting between the Buyer and the Company.

### 5. Delivery

Delivery dates or promises are stated in good faith but without warranty and are to be regarded as no more than estimates and shall in no way whatsoever involve the Company in any liability.

### 6. Non-delivery/Damage

No responsibility can be accepted for non-delivery unless the Carrier and the Company are notified in writing within 14 days of the date of invoice or advice. Consignments damaged or with part contents missing, must be signed for accordingly and reported to the Carrier and the Company, in writing within 3 days of delivery.;

### 7. Force Majeure

The Company will not be liable to the Buyer for non-fulfilment of orders or for delay in manufacture or delivery caused by force majeure as herein defined and in the event of such force majeure occurring, it may without liability cancel the contract or vary its terms by, but not limited to, extending the time for performing the contract for a period at least equal to the time lost by reason of such event.

For the purpose of this condition force majeure shall mean any circumstance beyond the Company's control and shall include (without prejudice to the generality of the foregoing):

- (a) riots, civil commotion, war, rebellion, national or international emergency;
- (b) destruction or damage due to natural causes, floods, fires or explosions;
- (c) any order of local, national or international authority;
- (d) strikes, lock-outs or other labour disputes;
- (e) shortage of labour, equipment, materials or supplies or break-down of machinery;
- (f) transportation delays howsoever caused;
- (g) natural disaster, fuel shortage and fire.

I acknowledge receipt of Conditions of Sale

Signed.....

### 8. Tolerances/Quantity Variations

The customary trade tolerances for aluminium foil will apply to all aluminium foil goods supplied.

An order will be considered as duly executed subject to a quantity variation not exceeding plus or minus 10%.

### 9. Printing and Embossing Cylinders

Printing and embossing cylinders will normally be charged by the Buyer at cost and such cylinders will remain the property of the Company.

### 10. Packing

All containers and packing materials with goods are due for return carriage paid and, where charged, will be credited in full upon receipt in good condition.

### 11. Defective Goods

Subject as provided in, and without prejudice to, provisions of Condition 6, any complaint regarding goods alleged to be defective or incorrectly supplied must be notified to the Company in writing within 28 days of receipt. No goods can be accepted for return without the prior agreement of the Company and whosoever agreed the return must be made within 3 months from the date of dispatch for any claim to be entertained.

In the event that the goods supplied by the Company do not comply with the terms of the contract of sale, or prove to be defective, the Company will at its option, replace the goods free of charge to the Buyer, or will refund all payments made by the Buyer to the Company in respect of defective goods. Subject as provided in Condition 12 below, this will be the limit and sole extent of the Company's obligations.

### 12. Limitation of Liability

All conditions warranties or other terms whether express or implied, statutory or otherwise, are hereby expressly excluded. Except as expressly provided in the Conditions of the Company shall be under no liability (whether due to negligence (or that of its servants or agents) or otherwise) either in respect of direct or consequential loss. Provided that:

- (a) nothing in the conditions shall exclude or restrict the Company's liability for breach of its implied undertakings as to title; and
- (b) nothing in this clause shall exclude or restrict the Company's liability for death or personal injury resulting from its negligence or that of its servants or agents.

### 13. Title and Risk

The risk in the goods shall pass to the Buyer upon delivery but the legal and beneficial title and ownership thereof shall, notwithstanding that delivery shall have been made, remain with the Company until the Company has received full payment thereof, or, provided that the Buyer shall not have been placed in liquidation or a Receiver shall not have been appointed over all or any of the Buyer's property and assets, until the re-sale of the goods, if earlier.

In the event that the Buyer is placed in liquidation or a Receiver is appointed over all or any of the Buyer's property and assets, any right of the Buyer to sell or otherwise deal with the goods shall thereupon cease and the Company may enter upon and remove from any premises of the Buyer any goods the legal and beneficial title and ownership to which is vested in the Company.

Until such time as the goods have been in the course of his business or have been paid for by the Buyer, the Buyer shall keep and store goods in such a manner that they can be clearly identified as belonging to the Company.

The Buyer shall not be entitled to return the goods or refuse or delay payment on the grounds that, and the Company shall be entitled to maintain an action for the price of the goods notwithstanding that, legal and beneficial title and ownership to the goods has passed to the Buyer.

Date.....

Company.....