



STANDARD CONDITIONS OF SALE

1 DEFINITIONS

In these Conditions the following expressions shall have the following meanings:-

- (1) "the Buyer" - the person, firm or company with whom the Company makes a contract to sell goods whether such contract is made by the Company directly or indirectly through an agent.
- (2) "the Company" – Henson Ceramics Limited and its successors and permitted assigns.
- (3) "Company's Premises" - the premises mentioned in the Company's quotation or other contractual document.
- (4) "Goods" - the products described in the contract between the Company and the Buyer for the sale or supply of those products.
- (5) "Incoterms" - the international rules for the interpretation of trade terms of the International Chamber of Commerce sales dated 2000.

2 GENERAL

- (1) These conditions shall be incorporated in all contracts for the Company to sell Goods to the Buyer for the purpose of retail sale or use and/or contract hotel use outside the United Kingdom.
- (2) In the case of inconsistency between these conditions and any letter or quotation incorporating or referring to these conditions, or any other communication between the Buyer and Company the provisions of these Conditions shall prevail unless expressly varied in writing and signed by a director on behalf of the Company.
- (3) Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions but, if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.
- (4) If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- (5) Unless otherwise agreed in writing, all contracts of the Company to sell Goods by way of export from the United Kingdom shall be made FCA the Company's Premises.
- (6) The headings in these Conditions are intended for reference only and shall not affect their construction.



- (7) In these Conditions, a statute, by-law, regulation, delegated legislation or order is to the same as amended, modified or replaced from time to time and to any by-law, regulation, delegated legislation or order made under it.

3 PRICES

- (1) The price payable for Goods shall, unless otherwise stated by the Company in writing, be the Company's list price (FCA the Company's Premises) current at the date of despatch and in the case of an order or delivery by instalments the price payable for each instalment shall be the Company's list price (FCA the Company's Premises) current at the date of despatch of such instalment.
- (2) The Company may increase the price of the Goods at any time before delivery to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (including, without limitation, foreign exchange fluctuation, currency regulation, alteration of duties, increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Company adequate information or instructions.
- (3) All prices are exclusive of Value Added Tax and this will be charged at the appropriate rate, if applicable.

4 ADDITIONAL COSTS

The Buyer agrees to pay for any loss or extra cost incurred by the Company through the Buyer's failure or delay in taking delivery or through any act or default on the part of the Buyer, its servants, agents or employees.

5 TERMS OF PAYMENT

- (1) Payment shall be in accordance with the terms of payment stipulated on the Company's acknowledgement of order or pro forma invoice (as the case may be) in respect of each order.
- (2) If the Goods are delivered in instalments, the Company may invoice each instalment at any time after delivery thereof has been made and payment shall be due in respect of each instalment whereof delivery has been made notwithstanding non-delivery of other instalments or other default on the part of the Company.
- (3) If upon the terms applicable to an order the price shall be payable by instalments or if the Buyer has agreed to take specified quantities of Goods at specified times, a default by the Buyer of the payment of any due instalment or the failure to give delivery instructions in respect of any quantity of Goods outstanding shall cause the whole of the balance of the price to become due forthwith.



- (4) The price of the Goods shall be due in full to the Company in accordance with the terms of the Contract, without deduction, set-off or counterclaim, and the Buyer shall not be entitled to exercise any lien or any other similar right or claim.
- (5) The time of payment shall be of the essence of the Contract.
- (6) Without prejudice to any other rights or remedies it may have, if the Buyer fails to make payment on the due date, the Company may either cancel the contract or suspend further deliveries to the Buyer and may charge the Buyer interest at 4% above the then current base rate of Barclays Bank plc on the amount unpaid until payment is made in full.
- (7) Unless otherwise stipulated in the Company's acknowledgement of order or pro-forma invoice, all payments in respect of the Goods shall be made in pounds sterling or (where agreed) in Euros but where any payment due to the Company is payable otherwise than in sterling, the sum due shall be calculated using for conversion purposes the average of the relevant buying and selling rates of Barclays Bank plc in relation to the currency concerned at the close of business on the date of payment.

6 DELIVERY

- (1) The period for delivery shall be the period notified to the Buyer within which the Goods are intended to be despatched from the Company's Premises and which shall be calculated from time to time from the date of the receipt by the Company of the Buyer's order or from the receipt of all necessary information to enable the Company to manufacture or procure the manufacturing of the Goods (whichever shall be the later).
- (2) All periods, times or dates given for delivery of Goods are given in good faith but without any responsibility on the part of the Company. Time of delivery shall not be of the essence of the Contract nor shall the Company be under any liability for delay whether or not beyond the Company's reasonable control.
- (3) Where the Goods are handed to a carrier, for carriage to the Buyer or to a United Kingdom port for export, any such carrier shall be deemed to be an agent of the Company and not of the Buyer for the purposes of Sections 44 to 48 of the Sale of Goods Act 1979 but for all other purposes such carrier shall be deemed to be the agent of the Buyer.
- (4) Where the Company agrees to arrange for transport and insurance as agent for the Buyer, the Buyer shall reimburse the Company the full costs thereof on demand or (if so required) in advance of shipment.
- (5) The responsibility of the Company shall cease immediately the Buyer is notified by the Company that the Goods are ready for delivery and the Company shall be under no obligation to give the Buyer the notice specified in Section 32(3) of the Sale of Goods Act 1979.



- (6) No liability for non-delivery, partial loss or damage to the Goods occurring prior to delivery or for any claim that the Goods are not in accordance with the Contract will attach to the Company unless claims to that effect are notified in writing by the Buyer to the Company (and in the case of claims for non-delivery, partial loss or damage with a copy to the carrier if the Company's own vehicles have not been used to deliver the Goods):-
 - (a) within 10 days of delivery for partial loss, damage or non-compliance with the contract; or
 - (b) within 14 days of the date of the invoice for non-delivery.
- (7) In the event of a valid claim against the Company for non-delivery, partial loss, damage or non-compliance with the Contract due to the acts or omissions of the Company, the Company undertakes at its expense but shall not be under any further or other liability to any person in connection with such non-delivery, partial loss, damage or non-compliance. The Company shall have no liability for the acts or omissions of the carrier whatsoever.
- (8) If the Buyer shall fail to give notice in accordance with Condition 7(6), the Goods shall be deemed to be in all respects in accordance with the Contract and the Buyer shall be bound to accept and pay for the same accordingly.
- (9) If for any reason the Buyer is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery, the Company may at its sole discretion and without prejudice to its other rights and remedies, store the Goods at the risk and cost of the Buyer and take all reasonable steps to safeguard and insure them at the cost of the Buyer, provided that the Buyer shall be immediately informed of this.
- (10) The Buyer shall be obliged to accept delivery at any time before the Contract is determined or instalment cancelled.
- (11) The Company may make delivery by instalments of such quantities and at such intervals as it may decide and any express provision as to instalments in the Contract shall be in addition to and not in derogation of this right.

7 RETURNS

Goods supplied in accordance with the Contract may not be returned without the prior written permission of the Company. Duly authorised returns shall be sent to the Company's Premises at the Buyer's expense.



8 PASSING OF TITLE AND RISK

From the time of notification by the Company to the Buyer that the Goods are ready for collection the Goods shall be at the risk of the Buyer who shall be solely responsible for their custody and maintenance and should arrange insurance accordingly.

Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the Goods shall remain the property of the Company until all sums due to the Company have been paid in full and unconditionally in cleared funds.

Whilst the Goods remain the property of the Company, the Buyer shall keep the Goods separate and identifiable from all other goods in its possession as fiduciary agent and bailee for the Company, and shall keep the Goods properly stored, protected and insured and identified as the Company's property.

In the event of any re-sale by the Buyer of the Goods the beneficial entitlement of the Company shall attach to the proceeds of sale or other disposition thereof so that such proceeds or any claim therefor shall be assigned to the Company and until and subject to such assignment shall be held on trust in a separate identified account for the Company by the Buyer who will stand in a strictly fiduciary capacity in respect thereof.

If the Buyer fails to pay the price in accordance with the Contract, the Company may require the Buyer to deliver up the Goods to the Company and, if the Buyer fails to do so forthwith, may enter upon any premises or land occupied or owned by the Buyer to remove the Goods. The Company may then resell the Goods, such power being additional to (and not in substitution for) any other power of sale arising by operation of law or implication or otherwise.

9 CONDITIONS AND WARRANTIES

Every description or specification of the Goods is given in good faith based on average results of standard tests but any conditions or warranties (express or implied) that the Goods shall correspond with such description or specification are hereby expressly excluded and the use of any such description or specification shall not constitute a sale by description.

Any conditions or warranties (whether express or implied by statute, common law or arising from conduct or a previous course of dealing or trade, custom or usage) as to the quality or fitness of the Goods for any particular purpose, even if that purpose is made known expressly or by implication to the Company, are expressly excluded.

If a sample of the Goods has been exhibited to and inspected by the Buyer or results of standard tests upon a sample are furnished to the Buyer, such sample was so exhibited and inspected or tested solely to enable the Buyer to judge for itself the quality of the bulk and not so as to constitute a sale by sample. The Buyer shall take the Goods at its own risk as to their corresponding with the sample or as to their condition or sufficiency for any purpose.



Without limitation, the Buyer expressly accepts that colour matching of the Goods may vary between the different production runs and any reasonable variations shall not entitle the Buyer to reject any goods or to claim any damages or compensation whatsoever in respect of it.

Except as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

10 DEFECTIVE GOODS

In substitution for all rights which the Buyer would or might have had but for these Conditions the Company undertakes, at its discretion:

- a) to credit to the Buyer the price paid by the Buyer to the Company for the Goods (excluding any transportation or other costs); or
- b) to supply replacement Goods free of charge at the place of delivery specified by the Buyer;

in respect of Goods manufactured or processed by the Company in which a serious defect in materials or workmanship appears within twelve months of delivery provided that in any case the Goods have been accepted and paid for.

In the case of Goods not of the Company's manufacture, the Company will use reasonable endeavours to pass on to the Buyer any benefits obtainable under any warranty given by the Company's supplier provided that the Goods have been accepted and paid for by the Buyer.

In order to exercise its rights under this Condition the Buyer shall inform the Company within seven days of delivery of the defective Goods or (where the defect or failure was not apparent on reasonable inspection) seven days from the date when such defect was discovered or ought reasonably to have been discoverable and shall, if requested by the Company, return the defective Goods carriage paid to the Company's Premises. If delivery is not refused, and the Buyer does not notify the Company accordingly, the Buyer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

Nothing herein shall impose any liability upon the Company in respect of any damage sustained while the Goods are in transit, or any defect in the Goods arising out of the acts, omissions, negligence or default of the Buyer, its servants, sub-contractors or agents including in particular, but without prejudice to the generality of the foregoing, any failure by the Buyer to comply with any recommendations of the Company as to storage



and handling of the Goods, or the misuse, alteration or repair of the Goods without the Company's approval.

Where the Goods are for delivery by instalments any defect in any instalment shall not be a ground for cancellation of the remainder of the instalments and the Buyer shall be bound to accept delivery.

11 BUYER'S DRAWINGS

- (1) The Company shall not be liable for any loss of whatever nature arising from any inaccuracy or incompleteness in any instruction, drawing, bills of quantities or specifications supplied by the Buyer
- (2) The Buyer warrants to the Company that all instructions, designs and specifications supplied by it do not breach any intellectual property or other rights of any third party and the Buyer shall indemnify the Company against any losses, costs and expenses the Company may incur directly or indirectly in consequence of any breach of such warranty.

12 DEFAULT OR INSOLVENCY OF BUYER

- (1) Without prejudice to any other right or remedy available to the Company, the Company may cancel the Contract and every other contract between the Company and the Buyer or may (without prejudice to the Company's right subsequently to terminate the contract for the same cause should it so decide), suspend any further deliveries, if :

the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation; or

an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

the Buyer ceases, or threatens to cease, to carry on business; or

the Company reasonably apprehends that any of the foregoing events is about to occur in relation to the Buyer and notifies the Buyer accordingly.

If the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

13 LIMITATIONS OF LIABILITY

- (1) Without prejudice to any other provision of these Conditions of Contract the liability of the Company to the Buyer for any loss or damage of whatsoever nature and howsoever caused shall be limited in respect of any order to, and in no circumstances shall exceed, the price of the Goods ordered.



- (2) The Company shall not be liable to the Buyer for loss of contracts, profits, anticipated savings, revenue, business or indirect or consequential loss.
- (3) Nothing in these Conditions shall have the effect of excluding or restricting any liability of the Company for death or personal injury resulting from its negligence or for fraud.
- (4) This Condition shall apply both before and after termination of the Contract.

14 REPRESENTATIONS ETC

- (1) No representation or warranty is valid unless given by the Company in writing, provided that the illustrations and drawings in the Company's catalogues and information sheets are intended to be general and do not constitute a representation or warranty or form part of the Contract.
- (2) Each party agrees that, in entering into the Contract, it does not do so on the basis of, and does not rely on, any representation, warranty or other provision except as expressly provided in the Contract and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law and the Company does not, to the extent permitted by law, have any implied obligation, duty, or liability in tort, statute or otherwise other than those expressly stated in the Contract.
- (3) Nothing in this Condition shall operate to limit or exclude any liability for fraud.

15 FORCE MAJEURE

The Company may suspend, delay or cancel delivery or reduce the amount delivered during the period and to the extent that it is prevented from or hindered in or delayed in manufacturing, obtaining or delivering the Goods through any circumstances beyond its control including but not limited to strikes, lock-outs, accidents, war, fire, reduction in or unavailability of power at manufacturing plant, breakdown of plant or machinery, shortage or unavailability of raw materials from normal source of supply, labour disputes or compliance with legal requirements.

16 CANCELLATION

Contracts may not be cancelled by the Buyer except with agreement in writing of the Company and upon the payment to the Company of such amount as may be necessary to indemnify the Company in full against all loss (including loss of profit), costs (including the cost of labour and materials used), damages, charges and expenses resulting from the said cancellation.

17 MISCELLANEOUS

- (1) The Company may assign and/or novate the contract with the Buyer or sub-contract the whole or any part thereof to any person, firm or company.
- (2) No waiver by the Company of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- (3) No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Company.



Henson Ceramics Limited

Castle Works, Stafford ST16 2ET

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- (4) A person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- (5) The Contract shall in all respects be governed by and construed in accordance with English law and shall be deemed to have been made in England and the Buyer and the Company agree to submit to the exclusive jurisdiction of the English Courts.
- (6) Nothing in this Contract shall limit the right of either party to take any proceedings, suit or action against the other party in any other court of competent jurisdiction in the domicile of that other party, nor shall the taking of them in one or more jurisdiction preclude the taking of them in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.