

# CONDITIONS OF SALE

1. **PARTIES** - In these conditions, the term "Seller" shall mean, the company generating, and whose name is printed on the invoice and any of its subsidiary companies and its successors in title and the expression "Buyer" shall mean the buyer of the goods/services ordered from the seller.

2. **GENERAL** - All quotations are made, and all orders are accepted, subject to the following terms and conditions, and no variation thereof will be recognised unless agreed in writing between the two parties.

3. **VALIDITY** - Unless previously withdrawn, all quotations are open for acceptance within thirty days only, from the date thereof, and are subject to confirmation at the time of such acceptance.

4. **PRICES** - All prices quoted or published by the seller are subject to alteration, without prior notice. In the case of accepted orders the buyer shall have the option of withdrawing from the transaction if he is unwilling to accept the alteration provided that manufacture of the goods covered by the order has not commenced, in which event clause 7 Cancellation and Return of Goods shall apply.

Neither party shall have any claim against the other arising from the buyer's withdrawal in these circumstances except where clause 7 applies.

5. **CURRENCY FLUCTUATIONS** - All prices are based on the exchange rate current at the time or indicated in the quotation.

Notwithstanding the buyer's option under clause 4 the seller reserves the right to alter or withdraw quotations should the exchange rate change by  $\pm 5\%$  or more.

6. **PAYMENT** - The buyer shall pay for the goods delivered within 30 days after the date of the seller's invoice for the same unless otherwise agreed in writing between the seller and the buyer and the seller shall be entitled to charge interest at its discretion at the rate of 5% per annum above bank rate applicable from time to time on any sum outstanding on any such invoice after the expiration of the said 30 days.

7. **CANCELLATION AND RETURN OF GOODS** - Orders for goods that are not the seller's standard products are only accepted on the condition that cancellation or return cannot be accepted by the seller. Cancellation of orders for, or return of, current standard products cannot be accepted without the previous consent of the seller in writing, and in all cases a handling charge will be levied.

If the buyer should default in or commit a breach of the contract or any part of their obligations due to whatever reason the seller reserves the right to terminate any contract subsisting without prejudice to any claim or right the seller may otherwise make or exercise.

8. **DELIVERY** - Any time or date indicated is an estimate only, and the seller shall not be liable for;

- a) The consequence of any delay, nor in the event of delay in delivery for any reason whatsoever, shall the buyer be entitled to cancel the order.
- b) Any delivery charges. Unless otherwise specified in writing by the seller prices quoted exclude delivery charges.
- c) Method of delivery. Any method of delivery used will be at the option of the seller and will be charged extra at the scale charge ruling at the date of despatch.

Scale charges for delivery are subject to alteration without prior notice and it is the responsibility of the buyer to acquaint themselves with the rate of any such scale charges as may be applicable at the date of despatch.

9. **ACCEPTANCE** - The acceptance of any tender/quotation must be accompanied by sufficient information to enable the seller to proceed with the order forthwith, otherwise the seller reserves the right to renegotiate the price to include any subsequent increase in costs.

No contract is deemed to be affected until acknowledged by the seller in writing.

10. **DAMAGES, SHORTAGES OR LOSS** - No claim for damage in transit, shortage of delivery or loss of goods will be entertained unless in the case of damage in transit or shortage of delivery a separate notice in writing is given to the carrier concerned and to the seller within three days of receipt of the goods, followed by a complete claim in writing within ten days of receipt of goods and in the case of loss of goods, notice in writing is given to the carrier concerned and to the seller and a complete claim in writing made within seven days of the date of consignment. Where goods are accepted from the carrier without being checked, the delivery book of the carrier must be signed 'not examined'.

11. **SPECIFICATIONS** - Where specifications are to be supplied, the buyer shall supply such specifications in reasonable time to enable the seller to complete delivery within the estimated period. Any unreasonable delay in submitting such specifications by the buyer shall be deemed to contribute to and be additive to any delays beyond the estimated period.

12. **SPECIFIED MATERIAL** - Where a buyer's order involves purchase of material from an external specified or non-specified supplier, any responsibility for the delay in delivery caused by such supply shall rest with the buyer.

13. **PERFORMANCE** - Any performance figures given by the seller are based upon experience and are such that the seller expects to obtain on test. The seller will accept no responsibility if those figures are not obtained in a particular application unless they specifically guarantee them under an agreed sum, as liquidated damages, subject to the recognised tolerances and rejection limits applicable to such figures.

The seller is to be given reasonable time to comply with the terms of the guarantee but otherwise the buyer assumes responsibility for the capacity and performance of the goods being sufficient and suitable for their purposes. No condition is made or to be implied nor is any warranty given or to be implied that the goods supplied will be suitable for any particular purpose or for use under any specific conditions.

14. **INDEMNITY** - The buyer shall indemnify the seller against all damages, penalties, costs and expenses to which the seller may become liable as a result of work done in accordance with the buyer's specification which involves infringement of any letters of patent or registered design.

The seller does not accept liability for any consequential loss incurred due to incorporation of supplied goods into other products.

15. **ARBITRATION** - Any dispute or difference whatsoever that arises under the contract shall be referred to an arbitrator/s to be agreed between the parties, or in default of an agreement, to the President of the Law Society for the time being, and his or their decisions shall be binding on both parties. The submission shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1950, or any statutory modification or re-enactment thereof.

16. **OWNERSHIP** - The seller and the buyer expressly agree that until the seller has been paid in full for the goods comprised in this or any other sale contract between them:

- a) the goods comprised in this contract remain the property of the seller (although the risk therein passes to the buyer at the point when delivery begins).
- b) the seller may recover those goods at any time from the buyer if in his possession, if the amount outstanding from the buyer to the seller in respect of goods supplied shall remain unpaid after the due date for payment has passed, and for that purpose the seller, its servants and agents may reasonably enter upon any land or building upon which the goods are situated.
- c) the buyer has the right to dispose of the goods in the course of their business for the account of the seller (but any warranties, conditions or representations given or made by the buyer or any third party shall not be binding on the seller who shall be indemnified by the buyer with respect thereto) and to pass good title to the goods to their customer being a bona fide purchaser for value without notice of the seller's rights.
- d) in the event of such disposal the buyer has the fiduciary duty to the seller to account to the seller for the proceeds but may retain therefrom an excess of such proceeds over the amount outstanding under this or any other sale contract between them and the seller.
- e) if the buyer incorporates such goods into other products (with the addition of their goods or those of others) or uses such goods as material for other products (with or without such addition) the property in those other products is upon such incorporation or use ipso facto transferred to the seller and the buyer as bailee of them for the seller will store the same for the seller, in the event of such incorporation or use as is envisaged by this sub-clause, the provisions of sub-clause 16 (b) to (d) above shall apply, mutatis mutandis, to those products in place of the goods.

17. **LAW APPLICABLE** - These conditions and the contract shall be subject to and construed in accordance with English Law.