

CONDITIONS – TERMS OF BUSINESS

Payment:

Unless otherwise expressly agreed, all Goods & Services provided by the Seller are to be paid for in full upon an order being placed.

1. General

The following terms represent the entire terms on which A.C. Special Projects Limited ("the Seller") is willing to sell goods (the "Goods") & services (the "Services") (collectively the "Goods & Services"). By ordering Goods & Services from the Seller, the Buyer agrees to adhere to these terms to the exclusion of any previous terms supplied by the Seller, the Buyer's own terms & conditions or any pre-contractual statements. Only a Director of the Seller has authority to contract for the sale of Goods & Services on any other terms or to amend, vary or waive these terms & then only in writing.

2. Time of Delivery/Completion

Any time of delivery for Goods or completion of Services given by the Seller shall be treated as an estimate only. The Seller will use its reasonable endeavours to deliver by the estimated time but gives no warranty or undertaking in respect thereof.

3. Place of Delivery

Goods shall be delivered to the Buyer at the place of delivery set out in this form or (if none is specified) at the premises of the Seller.

4. Price

The price includes insurance for the benefit of the Seller & shall be payable in accordance with the agreed payment schedule. Time of payment shall be of the essence. In the event that payment is not made when due, the Seller may:-

- 4.1 cancel any contract to supply further Goods or Services
- 4.2 suspend deliveries of further Goods or the supply of further Services to the Buyer;
- 4.3 suspend any credit terms, whereupon all sums payable to the Seller from the Buyer for Goods &/or Services shall become due & payable immediately;
- 4.4 charge interest at 8% above the base rate of Lloyds TSB Bank Plc plus any costs of collection

5. Passing of Property

5.1 Property in the Goods shall pass to the Buyer on:

- (a) payment in full of the price of the Goods; &
 - (b) payment in full of all other sums owing by the Buyer to the Seller.
- 5.2 Until property has passed as aforesaid, the Buyer shall hold the Goods as bailee for the Seller & shall keep them separately stored & identifiable as belonging to the Seller.
- 5.3 In the event that the Buyer sells the Goods before property has passed as aforesaid, the Buyer shall do so as agent of the Seller & the proceeds of such sale shall be kept in a separate account identifiable as belonging to the Seller & the Buyer shall be liable to account to the Seller for all such proceeds.
- 5.4 Until property has passed as aforesaid, the Seller shall be entitled at any time:
- (a) by notice in writing to require the Buyer forthwith to return the Goods, whereupon the Buyer shall cease to be in possession of them; or
 - (b) to retake possession of the Goods & for that purpose enter on any premises where the Goods are or are reasonably believed by the Seller to be situated.
- 5.5 Notwithstanding the above, the Goods are insured by the Seller whilst in transit & until delivered to the Buyer's premises. Upon receipt, the Buyer shall sign for the Goods as "delivered not checked" & shall advise the Seller in writing within 5 days of receipt of the Goods of any damage. Any damage not notified in writing within 5 days shall not be covered by the Seller's insurance & shall be at the risk of / to the account of the Buyer.

6. Fitness for Purpose

The Seller gives no warranty that the Goods are fit for the Buyer's purpose or purposes. The Buyer warrants that it has satisfied itself that the Goods will be fit

for every purpose which the Buyer requires & the Buyer has not relied on any skill or judgment of the Seller in that regard.

The Buyer further warrants that:

- (a) the Buyer is aware that the Goods are supplied for the purpose for which they were manufactured;
- (b) the Buyer has all necessary licenses required for their use;
- (c) the Goods will be tested prior to use;
- (d) the Goods will only be used by suitably qualified individuals;
- (e) the Goods will be regularly serviced, tested, certified & inspected;
- (f) the Goods will not in any way be adapted or altered; &
- (g) the Buyer will not give or imply any warranty to any person to whom the Buyer may sell or let the Goods other than the foregoing & that the Buyer will notify that person of the requirements of the Seller as to license, test, use, service, inspection, certification & adaptation as above & of any statutory authority of any state or country in which the Buyer or that person is resident or carrying on business.

Nothing in this clause affects the Buyer's rights under the Sale of Goods Act 1979.

7. Acceptance

The Buyer shall inspect & test the Goods immediately upon delivery & shall within 5 days after receipt give notice in writing to the Seller of any respect in which the Buyer alleges the Goods do not accord with the agreed terms. If the Buyer does not give such notice within that time, the Goods shall be deemed to be accepted in every respect.

8. Liability

This clause shall apply to all claims by the Buyer against the Seller irrespective of whether such claims arise in contract or in tort & whether or not the Seller was negligent.

- (a) The Seller shall indemnify the Buyer against any claims arising from physical injury to or death of the Buyer's personnel &/or third parties, which is directly & wholly attributable to the gross negligence of the Seller or its employees in the performance of its or their duties under these terms.

- (b) In the event that notice has been given pursuant to clause 7 above that the Goods (or part thereof) are not in accordance with the agreed terms, & the price of the Goods has been paid on or before the due date, the Seller shall replace or repair the Goods (or part thereof) at its own expense provided that the Buyer has within 30 days after the said notice caused the Goods (or part thereof) which are alleged to be defective to be returned, at the Buyer's expense, to the Seller's premises or such other place as the Seller shall direct.
- (c) No other remedy than that provided for in sub-paragraph (b) above shall be available to the Buyer.
- (d) Without prejudice to the generality of the foregoing the Seller:-
 - (i) shall not be liable for any damages including but not limited to those arising from loss of profits, loss of use, loss of revenue, loss of hire or rental in respect of the Goods or any other goods, or arising from compensation payable by the Buyer to any other person, firm, corporation or organization whatsoever; &
 - (ii) except in relation to claims under sub-paragraph (a) above, shall not be liable for any losses, damages, costs, claims, expenses or liabilities exceeding the purchase price of any disputed Goods.

9. Force Majeure

The Seller shall be relieved of its obligations under these terms insofar as it is hindered in or prevented from performing them by any circumstances beyond the Seller's reasonable control.

10. Hold Harmless

The Buyer undertakes & agrees to indemnify & hold harmless the Seller against any & all actions, claims, proceedings, costs, losses, expenses, liabilities, including legal fees, whatsoever & howsoever caused or arising out of, connected with, or resulting from the Buyer's breach of these terms & use of the Goods including without limitation the manufacture, selection, delivery, possession, use, operation, return or any & all damages or injuries caused thereby to anyone whatsoever.

11. Waiver & Invalidity

- (a) The failure of either party hereto to insist on strict compliance with any of these terms by the other party shall not be deemed a waiver of that term nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.
- (b) If any provision in these terms is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in force without being impaired or invalidated in any way.

12. Arbitration

All disputes or differences arising between the parties at any time in relation to the subject matter of these terms shall be referred to a single arbitrator to be agreed upon by both parties or in default of agreement to be nominated by the President for the time being of the Chartered Institute of Arbitrators in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment of it for the time being in force.

13. Applicable Law

These terms are governed by & are construed in accordance with English Law. The Buyer submits to the jurisdiction of the Courts of England & agrees that the Seller retains the right to enforce these terms in any Court of competent jurisdiction.

14. Tender

In respect of any tender offer, it is the Buyer's responsibility to ensure that the Goods & Services detailed in any quotation fully meet the requirements of the Buyer's tender request. The Seller retains the right to accept or decline acceptance by the Buyer of any tender offer so the offer should not be taken as unilateral acceptance of the contents of a request for tender document.

15. Freedom of Information Act 2000

Exemption is claimed under Section 43(2) of the FOI Act 2000 with regard to the prices of Goods or Services contained in any tender as their disclosure could affect the commercial interests of the Seller.

16. Infrastructure

In respect of any request for Goods or Services to be installed in any building or infrastructure, the Seller cannot be held responsible & is not liable for the structural integrity of such building or infrastructure. Unless otherwise agreed, it is the Buyer's responsibility to ensure any building or infrastructure is suitable to support any proposed installation of the Goods or Services.

17. Working Hours

Unless otherwise agreed, the price for any installation assumes that work will be carried out during normal working hours (8am - 5pm).

18. Fixed Price

If the Seller provides a fixed price quotation, it may include the supply of equipment & services specified in any request for quotation or any tender request. The Seller reserves the right to adjust the price of any such equipment &/or services if the Seller's supplier of such equipment &/or services increases its prices. Whilst it is the Seller's intention to secure a fixed price contract with its supplier of equipment &/or services, it may not always be possible to reach such agreement. The Seller does undertake to advise the Buyer when any such agreement with its supplier is reached, whereupon it will withdraw its right to adjust the price of said equipment &/or services. The Seller also undertakes to advise the Buyer of any change in the price of the said equipment &/or services within 7 days of being notified by the Seller's supplier of any price increase.

19. Warranty

Installation work carried out by the Seller & excluding actual equipment is warranted for a period of 12 months from completion. All equipment carries the manufacturer's standard 'back to base' warranty, faulty equipment must be removed from site & sent back to the supplier at the Buyer's cost for warranty repair. The Seller can provide an on-site warranty including the removal & reinstallation of faulty equipment at a separate cost.

20. Rights of Third Parties

The provisions of the Contracts (Rights of Third Parties) Act 1999 are expressly excluded from these terms.

21. Amendments & Modifications

These terms & conditions evidence a complete & binding agreement between the Seller & Buyer as to the terms applicable whenever the Buyer purchases Goods or Services from the Seller. Any amendments must have the express written agreement of the Seller & the Buyer in a document evidenced by signatures of both parties.