

A.C. Special Projects Ltd – Terms of Business

1. General: These terms of business, together with any written quotation provided by the Seller (together, the "Agreement") represent the entire agreement on which A.C. Special Projects Limited (the "Seller") is willing to sell goods (the "Goods") and/or provide services (the "Services"). By ordering Goods and/or Services from the Seller, the Buyer (identified as such in the relevant quotation) agrees to adhere to this Agreement to the exclusion of all other terms, whether supplied by the Seller, the Buyer's own terms & conditions or any pre-contractual statements made by either party. The Buyer is hereby put on notice that only a director of the Seller has authority, in relation to a supply of Goods and/or Services, to amend or waive the terms of this Agreement and any such amendment or waiver must be in writing in order to be effective.

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 and time shall not be of the essence in relation to the Seller's obligations pursuant to the Agreement. The Seller will use its reasonable endeavours to deliver by the estimated time but gives no warranty or undertaking in respect thereof and is, in any event, not responsible for any delays which are not in the Seller's reasonable control.

3. Place of Delivery: Goods shall be delivered to the Buyer at the place of delivery set out in the quotation or (if none is specified) at the premises of the Seller. Services shall be performed at the location set out in the quotation.

4. Price and Payment:

4.1 The price includes insurance for the benefit of the Seller and shall be payable in accordance with the payment schedule set out in the quotation. Time of payment shall be of the essence. In the event that payment is not made when due, the Seller may, without prejudice to any other remedies it may have:

- (a) cancel any contract to supply further Goods or Services;
- (b) suspend deliveries of further Goods or the supply of further Services to the Buyer;
- (c) suspend any credit terms, whereupon all sums payable to the Seller from the Buyer for Goods and/or Services shall become due and payable immediately; or
- (d) charge interest at 8% above the base rate of Lloyds TSB Bank Plc plus any costs of collection, such interest charged from the due date until the date payment is received.

4.2 Where the Seller provides a fixed price quotation, such quotation is subject to the following:

- (a) It may include the supply of Goods and/or Services specified in any request for quotation or any tender request.
- (b) The Seller reserves the right to adjust the price of any such Goods and/or Services if the Seller's supplier of such equipment and/or services increases its prices.
- (c) Whilst it is the Seller's intention to secure a fixed price contract with its supplier of equipment and/or services, it may not always be possible to reach such agreement. The Seller will 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 and/or services.
- (d) The Seller also undertakes to advise the Buyer of any change in the price of the said equipment and/or services within 7 days of being notified by the Seller's supplier of any price increase.

5. Title, Risk and Insurance:

5.1 Title in the Goods shall pass to the Buyer on: (a) payment in full of the price of the Goods or of the Services, in accordance with the terms of any payment schedule, if applicable; and (b) payment in full of all other sums owing by the Buyer to the Seller.

5.2 Until title has passed as aforesaid: (a) the Buyer shall hold the Goods as bailee for the Seller and shall keep them separately stored and identifiable as belonging to the Seller; and (b) the Seller shall be entitled at any time (i) 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 (ii) to retake possession of the Goods and for that purpose enter on any premises where the Goods are or are reasonably believed by the Seller to be situated.

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 and the proceeds of such sale shall be kept in a separate account identifiable as belonging to the Seller and the Buyer shall be liable to account to the Seller for all such proceeds.

5.4 Without prejudice to the foregoing, the Goods are insured by the Seller whilst in transit and until delivered to the Buyer's premises. Upon receipt, the Buyer shall sign for the Goods as "delivered not checked" and shall advise the Seller in writing within 7 days of receipt of the Goods of any damage. Any damage not notified in writing within 7 days shall not be covered by the Seller's insurance and shall be at the risk of / to the account of the Buyer.

6. Warranties:

6.1 The Seller gives no warranty that the Goods are fit for the Buyer's purpose or purposes.

6.2 The Buyer warrants that it has satisfied itself that the Goods will be fit for every purpose which the Buyer requires and the Buyer has not relied on any skill or judgment of the Seller in that regard.

6.3 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 and permissions 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 and inspected; (f) the Goods will not in any way be adapted or altered; and (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 and that the Buyer will notify that person of the requirements of the Seller as to license, test, use, service, inspection, certification and adaptation as above and of any statutory authority of any state or country in which the Buyer or that person is resident or carrying on business.

6.4 Installation work carried out by the Seller, excluding the 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 and sent back to the supplier at the Buyer's cost for warranty repair). The Seller can provide an on-site warranty including the removal and reinstallation of faulty equipment at a separate cost.

6.5 Light Emitting Diodes (LED) LEDs are binned to offer the closest match in colour for batches produced, however there may be some colour differences. The seller does not warrant that LED's of the same colour, contained in LED lighting equipment will match.

7. Acceptance: Without prejudice to the provisions of clause 5.4, the Buyer shall inspect and test the Goods immediately upon delivery and shall within 7 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 and whether or not the Seller was negligent.

8.1 Nothing in the Agreement shall exclude or limit the Seller's liability for (a) fraud or fraudulent misrepresentation; (b) death or personal injury caused by its negligence (as defined in section 1 of the Unfair Contract Terms Act 1977); (c) any breach of the undertakings implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or (d) any other liability which it would be unlawful to attempt to exclude or limit.

8.2 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, and the price of the Goods has been paid on or before the due date, the Seller shall, as the Buyer's sole remedy in such circumstances, either (i) replace or (ii) repair the Goods (or part thereof) at the Seller's 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.

8.3 The Seller shall indemnify the Buyer against any claims arising from physical injury to or death of the Buyer's personnel and/or third parties, which is directly and wholly attributable to the gross negligence of the Seller or its employees in the performance of its or their duties under the Agreement.

8.4 Subject to the provisions of clause 8.1, (a) the Seller shall not be liable for (i) any indirect, special or consequential loss or damage, (whether in contract, tort (including negligence) or otherwise), or (ii) any loss of profits, loss of use, loss of revenue, loss of hire or rental in respect of the Goods or the provision of the Services, or arising from compensation payable by the Buyer to any other person, firm, corporation or organization whatsoever; and (b) the Seller's aggregate liability in relation to any claim, losses or damages suffered (whether in contract, tort (including negligence) or otherwise) by the Buyer or a third party in connection with the Seller's supply of Goods and/or Services shall not exceed the purchase price of the specific Goods or Services in respect of the which the claim, loss or damage occurred.

8.5 Without prejudice to the foregoing, where the Services include the installation of Goods or other products in any building or infrastructure, the Seller cannot be held responsible and 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.

9. Force Majeure: The Seller shall be relieved of its obligations under the Agreement 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 and agrees to indemnify and hold harmless the Seller against any and all actions, claims, proceedings, costs, losses, expenses, liabilities, including legal fees, whatsoever and howsoever caused or arising out of, connected with, or resulting from the Buyer's breach of the Agreement and use of the Goods including without limitation the manufacture, selection, delivery, possession, use, operation, return or any and all damages or injuries caused thereby to anyone whatsoever.

11. Waiver & Invalidity:

11.1 The failure of either party hereto to insist on strict compliance with any term of the Agreement 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.

11.2 If any provision in the Agreement 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 the Agreement 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. Tender: These terms of Business apply to all tender submissions made by the Seller. In respect of any such submission, the Buyer must ensure that the Goods and Services detailed in any quotation which is part of the submission fully meet the Buyer's requirements for that tender. Each tender submission by the Seller is conditional upon the Seller's written acceptance after the Buyer has offered to purchase the Goods and/or Services based on the initial submission. The Buyer agrees that the Seller shall not be bound by the original tender submission if it chooses to decline the Buyer's offer or amend the original submission.

14. Data Protection and Freedom of Information:

14.1 From time to time, the Seller may pass on to third parties personal data provided by or collected from the Buyer in the course of supplying Goods and/or Services to the Buyer, solely for the purpose of facilitating the supply of Goods and/or Services to the Buyer. The Buyer hereby expressly consents to such sharing of personal data.

14.2 Exemption is claimed under Section 43(2) of the Freedom of Information 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.

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

16. Rights of Third Parties: The parties to the Agreement do not intend that the provisions of the Contracts (Rights of Third Parties) Act 1999 should apply to the Agreement and they are expressly excluded.

17. Entire Agreement: The Agreement constitutes the entire agreement and understanding between the Buyer and Seller in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between them in relation to such matters. Each of the Buyer and Seller acknowledges and agrees that in entering into the Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in the Agreement. The only remedy available to either party in respect of any such statements, representation, warranty or understanding shall be for breach of contract under the terms of the Agreement. Nothing in this Clause 17 shall operate to exclude any liability for fraud.

18. Assignment and Subcontracting: The Seller (i) may assign this Agreement to a third party and (ii) reserves the right to appoint a subcontractor of its choice, in relation to the supply of Goods and/or Services pursuant to this Agreement.

19. Applicable Law: Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes and claims).