

Terms & Conditions

THIS CONTRACT

The contract between us is subject to our standard terms and conditions of sale and may be subject to special terms set out and described as such on any quotation.

Unless previously withdrawn, quotations and tenders are open for acceptance for the period stated in them or, if no period is stated, for 30 days from their date. Unless you are making full payment in advance, no contract shall be formed until credit approval has been granted.

This is the entire contract between us. No other representations or terms are binding on us.

YOUR OBLIGATIONS TO US

You must take delivery on the stated date. If not, the full price will become immediately due and you must pay any expenses we incur, for example for storage. Payment must be made in full by the end of the month following invoice date. If not, you will pay interest and compensation. You may not make any deductions or set-off.

OUR OBLIGATIONS TO YOU

We shall make every effort to deliver on the stated date but offer no guarantee of this and shall not be liable for any loss if we fail to do so.

We warrant goods against defects in workmanship/material for 18 months from despatch our works, or 12 months from commissioning, and renewal parts and service work for 90 days, provided you notify us in writing of any claim within 21 days of the defect arising and provided you then stop using the goods and offer us the opportunity to inspect (and provided you have paid for them).

We shall not be liable to you under any circumstances for any higher amount than the purchase price of the goods/services.

PASSING OF TITLE AND RISK

Title (ownership of the goods) will not pass to you until you have paid in full. Until then, the goods belong to us and you must keep them separate from other goods. If you re-sell them you must account to us for the sale proceeds and keep these separate from other monies. We may re-possess the goods if you do not pay for them.

Risk (of damage or loss) however passes to you immediately upon delivery and you must insure the goods.

TERMINATION

Our obligations to you will cease if you become insolvent or cease trading and the full price for any goods already delivered shall become immediately due. If you wish to terminate a maintenance contract (standard or comprehensive) early, you must give three months notice.

1. CONTRACT

- 1.1 Unless previously withdrawn, quotations and tenders are valid for the period stated in them or, if no period is stated, for 30 days from their date and any order should be submitted within that time. Our quotation or tender is not an offer by us to supply goods or services but is an invitation to treat.
- 1.2 No contract arises until:
 - 1.2.1 We have accepted your order, either by confirming acceptance in writing or executing the order; and
 - 1.2.2 Unless you are making full payment in advance, credit approval has been granted.
- 1.3 Our acceptance of your order, and the contract between us, shall be subject to these Terms and Conditions (together with any special conditions endorsed on any quotation) which are the only basis upon which we do business and which shall prevail notwithstanding any printed or other conditions contained in any purchase order or in your acceptance or otherwise brought to our notice. No other oral or written agreement, representation, promise, undertaking or understanding of any kind whether made by our agents, employees or any other person (unless expressly accepted in writing by us) shall vary, supersede or operate as a waiver of these Terms and Conditions.
- 1.4 Any error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by us may be corrected without any liability on our part.
- 1.5 You shall be responsible for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by you and for giving us any necessary information within a sufficient time to enable us to perform the contract.
- 1.6 Unless otherwise specified in any quotation, goods will be of standard design and manufacture and subjected to standard test prior to delivery. We reserve the right to make any changes in the specification which are required to conform to any applicable safety or other statutory requirements. We accept no liability for any minor deviation from the contract nor shall such deviation be made the basis of any claim against us.
- 1.7 The contract between us may only be terminated prior to completion in the circumstances set out in these Terms and Conditions, unless it is a contract for the provision of maintenance services over a period of time, in which case the contract may be terminated at any time by either party giving three months' written notice to the other party.

Terms & Conditions

2. PRICE

- 2.1 The prices quoted are based on the cost of materials, wages, overhead costs, statutory obligations and foreign currency exchange rates ruling at the date of tender or quotation. We may increase the prices charged without notice if any of these costs increases prior to delivery unless we submit a quotation on a fixed price basis or we expressly state in writing that prices are to be fixed.
- 2.2 The prices quoted do not include any VAT or other taxes, tariffs, duties or other local, national government or European Community levies. If goods or services provided by us are subject to such levies, the contract prices will be increased by the gross amount of the levies chargeable.
- 2.3 The prices quoted do not include cost of freight, insurance or packing, unless otherwise stated.
- 2.4 If work is suspended or delayed due to your instructions, lack of instructions or failure to supply specifications or parts, additional charges may be made including (but not limited to) overtime working, expediting, storage, waiting time or currency movements.
- 2.5 Minimum net invoice value shall be £25.00.

3. TERMS OF PAYMENT

- 3.1 Unless otherwise agreed in writing, full payment must be made within 28 days of invoice date – subject in every case to approved credit status; if credit is not approved, payment must be made or secured to our satisfaction before any contract arises.
- 3.2 If you fail to make payment on time we shall be entitled:
 - 3.2.1 To charge interest at the higher of (a) the rate specified by the Late Payment of Commercial Debts (Interest) Act 1998 from time to time or (b) 8% above bank base rate from time to time, calculated from the invoice date on all outstanding sums due to us, and also to charge compensation in such amount as is specified in that Act;
 - 3.2.2 To suspend any outstanding work or deliveries or to cancel the contract at our option and to demand immediate payment of all sums owing to us without prejudice to our right to damages;
 - 3.2.3 To suspend work on any other contract which we have with you or to cancel such contract at our option and to demand immediate payment of all sums owing to us without prejudice to our right to damages.
- 3.3 All payments shall be made without any deductions or set-off or counter-claim unless previously been agreed in writing.
- 3.4 Payment must be made in the currency stated on the invoice. If you pay in a different currency, you agree to reimburse to us any currency exchange or other charges we may incur and to make good any shortfall between the invoiced amount and the payment following currency exchange.

4. DELIVERY

- 4.1 Delivery shall be deemed to take place:
 - 4.1.1 In respect of a contract for the sale only of goods, ex-works at the moment of the loading of the goods on to your or a carrier's transport unless otherwise agreed in writing; or
 - 4.1.2 In respect of a contract for the sale and installation of goods, or in respect of a contract for services, on the date when we consider that you have beneficial use of those goods and/or services.
- 4.2 Dates for delivery are given in good faith and as accurately as possible, but are not guaranteed. Time shall not be deemed to be of the essence.
- 4.3 We shall not be liable for damages for delay, however arising.
- 4.4 Delivery (and, where appropriate, installation) shall take place at the premises stated by you in your order. You shall be responsible for unloading goods immediately upon arrival unless otherwise agreed in writing.
- 4.5 We may deliver any goods by instalments and shall be entitled to invoice you for each instalment separately. We may treat each delivery as a separate contract and failure by us to deliver any one or more of the instalments or any claim by you in respect of any one or more instalments shall not entitle you to treat the contract as a whole as repudiated.

Terms & Conditions

- 4.6 On delivery of any goods you shall be responsible for and assume the risk of loss of, destruction of or damage to the goods.
- 4.7 Any claim for loss, damage or short delivery or failure to comply with the contract which is apparent from external visual inspection of any goods must be notified to us immediately by telephone and confirmed in writing within three working days of receipt of the goods.
- 4.8 Our liability for loss or damage in transit, short delivery or failure to deliver or failure to comply with the contract shall be limited to the cost of remedying the loss, damage or other defect. We shall not be liable under any circumstances for any indirect or consequential loss.
- 4.9 If you fail or refuse to take delivery of any goods or services at the agreed time or are guilty of any act or omission which precludes us from delivering any goods or services, we shall be entitled to invoice you for the full value of the goods or services along with any costs or expenses that we may incur such as (but not limited to) storage costs or overtime payments.

5. RESERVATION OF TITLE

- 5.1 Risk of damage to or loss of the goods shall pass to you upon delivery or, if you wrongfully fail to take delivery of the goods, at the time when we have tendered delivery of the goods.
- 5.2 Notwithstanding delivery and the passing of risk in the goods, property (ownership) in the goods shall not pass to you until we have received in cash or cleared funds payment in full of the price of the goods.
- 5.3 Until property in the goods passes to you, you shall hold the goods as our fiduciary agent and bailee, and shall keep the goods separate from your or any third party's goods, properly stored, protected and insured and identified as our property. Until that time you may re-sell or use the goods in the ordinary course of your business but shall account to us for the proceeds of sale or otherwise of the goods whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any other monies or property and, in the case of tangible proceeds, properly stored, protected and insured. This right to re-sell or use the goods may be withdrawn at any time by written notice from us and shall automatically cease in the event of clause 10 applying.
- 5.4 Until property in the goods passes to you we may at any time require you to deliver up the goods to us and, if you fail to do so forthwith, enter upon your premises or the premises of any third party where the goods are stored and repossess the goods.
- 5.5 You may not pledge or in any way charge by way of security for any indebtedness any of the goods which remain our property but if you do so all monies owing by you to us shall become due and payable immediately.

6. WARRANTY

- 6.1 We warrant all goods against defects in workmanship and material for 18 months from despatch our works or 12 months from commissioning. We warrant renewal parts and service work for 90 days from delivery
- 6.2 This obligation is limited to repairing or replacing at our discretion any part of the goods found to be faulty or re-performing any services subject to the following limitations:
- 6.2.1 That you shall give written notice to us specifying the nature of the defects within 21 days of discovery;
- 6.2.2 That you shall make no further use of the goods after the discovery of any defect unless our written approval is given;
- 6.2.3 That you shall afford us a reasonable opportunity to inspect the goods alleged to be defective;
- 6.2.4 That we shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow our instructions (whether oral or in writing) or manuals, misuse or alteration or repair of the goods by anyone other than our personnel without our approval;
- 6.2.5 That you shall observe all of our directions as to the return of the defective goods (or the defective part) to a point specified by us within the United Kingdom and as to the collection of the repaired or replaced goods (or part) or as to facilities for repair on site or otherwise;
- 6.2.6 That we assume no responsibility for any labour expense or transportation cost incurred by you in replacing or changing defective goods covered by this warranty unless by specific prior written agreement;
- 6.2.7 That our liability shall be limited to the cost of providing replacement or repaired parts and shall not include any indirect, incidental, consequential loss (other than personal injury caused by our negligence) resulting from any defect in goods supplied, work done or from any service provided;

Terms & Conditions

- 6.2.8 That all design-only work undertaken by us is undertaken on the basis of our manufacturing and service expertise and, as such, we cannot accept any responsibility where you use third parties to work to our designs;
 - 6.2.9 That we shall be under no liability in respect of any defect arising from any materials, drawings, designs or specification provided by you or any third party;
 - 6.2.10 That you have paid in full for the goods or services by the due date for payment.
- 6.3 Any goods repaired or replaced under warranty will only be warranted for the balance of the original warranty period outstanding.
- 6.4 All other warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 7. INTELLECTUAL PROPERTY RIGHTS**
- 7.1 We warrant only that the goods will not infringe any patent rights published (at the date of the contract) in the United Kingdom or any other territory specified in the contract as a territory in which the goods are to be used, and we shall indemnify you against direct damages and costs awarded for any such infringements, provided that:
- 7.1.1 This indemnity shall not apply to any infringement which is due to us having followed an instruction given by you or to the use of such goods in a manner or for a purpose or in a foreign country not specified or disclosed to us;
 - 7.1.2 This indemnity is conditional on you giving to us the earliest possible notice in writing of any claim being made or action threatened or brought against you and on you permitting us at your expense to conduct any litigation that may ensue and all negotiations for a settlement of the claim.
- 7.2 You warrant that any instructions given by you shall not be such as will cause us to infringe any letter patent, copyright, utility model, registered design, right of confidence or trade mark in execution of your order.
- 7.3 We shall not in any circumstances be liable for any damages or costs awarded in respect of an infringement of the type referred to in 6.1 above for goods supplied by us but not manufactured by us.
- 7.4 You acknowledge that all Intellectual Property Rights used or embodied in any goods supplied by us are and shall remain our sole property or such other party as may be identified on the goods and you will not during or after completion or termination of this contract question or dispute the ownership of any such Intellectual Property Rights. If any new know-how arises in the performance of or as a result of this contract, you acknowledge that all Intellectual Property Rights in such know-how shall belong to us unless otherwise agreed in writing.
- 7.5 "Intellectual Property Rights" means all patents, registered or unregistered designs, trademarks or service marks, copyright and all other intellectual property rights subsisting in any part of the world.
- 8. DAMAGES**
- 8.1 In any event, and notwithstanding anything contained in this contract, under no circumstances shall we be liable in contract, tort, or otherwise howsoever for any increased costs or expenses, any loss of profit, business, contracts, revenues or anticipated savings, or for any special, indirect or consequential loss or damage of any nature whatsoever. In any event our liability to you in respect of any breach or non-performance of this contract shall be limited to the purchase price of the goods and/or services.
- 9. INSTALLATION OR SERVICE CONTRACTS**
- 9.1 You shall make available at the site or electricity, water and other facilities as we may require.
- 9.2 Unless otherwise agreed in writing, all work is to be performed during our normal working hours as we may determine from time to time.
- 9.3 Time for completion of any services is not guaranteed but we will use reasonable endeavours to comply with any schedule required.
- 9.4 We will obey all proper and reasonable safety rules and instructions in force at the site. Where no such rules or instructions apply the guidelines set out in the Health and Safety at Work Act will be adhered to.

Terms & Conditions

- 9.5. Where access to the equipment to be worked on by us is hazardous you shall make the necessary provision for our engineer to carry out the work in safety. This includes (but is not limited to) working at altitudes, electrical hazards, flameproof areas and potential disease or contamination. Any costs incurred by us as a direct result of an unsafe working environment such as (but not limited to) abortive visits or specialist safety equipment shall be your sole responsibility.
- 9.6. You hereby agree to indemnify us in respect of all costs, claims and liabilities of whatever nature incurred by third parties for which we become liable as a result of the execution of services and agree to hold as harmless in respect thereof (except in the case of our own negligence).
- 9.7. You hereby agree to indemnify us in respect of all costs, claims and liabilities of whatever nature for which we become liable as a result of any non-compliance by you with the Health & Safety at Work Act in relation to your premises at which we may be working from time to time. Goods supplied by us can constitute a health hazard if used incorrectly or without regard to our health and safety recommendations which may be issued from time to time. It is your responsibility to ensure that you acquaint yourself with any such recommendations. If requested by us, you agree to sign a written undertaking to take such steps as we may specify in relation to the safe and proper use of the goods and we may refuse to deliver or install goods if you do not sign such undertaking.
- 9.8. In respect of installation contracts, we will be entitled to issue a practical completion certificate when you are able to enjoy beneficial use of the goods or services to be supplied by us or any part thereof. Upon the issue of the practical completion certificate, we shall invoice you and you agree to sign a handover certificate confirming your acceptance of the goods or services (or part thereof) described in the certificate. If you do not sign the handover certificate without written explanation within two weeks of presentation, all our warranty obligations shall cease immediately.
- 9.9. The preparation and construction of foundations, access and supporting structures, structural or other building alterations, and the provision of appropriate electrical supply are not included in the contract and must be prepared by you prior to delivery or installation. You must make proper provision in the overall construction schedule for us to carry out any installation work without interruption and in one visit to site.
- 9.10. Any drawings and specifications prepared by us shall be prepared on the basis of information and criteria supplied by you prior to the contract. We shall not be liable for any error, mis-description, unfitness for purpose or any patent or copyright infringement. We reserve all rights by way of letters patent, trademarks, design rights, registered design, copyright or trade secrets in any documentation, drawings plans or specification, technical data or formulae in anything written, drawn or manufactured by us, which you agree not to reproduce or cause or permit to be reproduced nor to communicate to a third party without our written consent, except in relation to information which may become public knowledge other than as a result of your breach of this clause. You are hereby licensed to make use of such information for the purpose only of commissioning, operating and maintaining the goods.
- 10. INSOLVENCY**
- 10.1 This clause applies if:
- 10.1.1 You make any voluntary arrangement with creditors or become subject to an administration order or (being an individual or firm) become bankrupt or (being a company) go into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
 - 10.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of your property or assets; or
 - 10.1.3 You cease, or threaten to cease, to carry on business; or
 - 10.1.4 We reasonably apprehend that any of these events is about to occur.
- 10.2 If this clause applies then, without prejudice to any other right or remedy available to us:
- 10.2.1 We may cancel the contract or suspend any further deliveries under the contract without any liability to you; and
 - 10.2.2 If any 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; and
 - 10.2.3 Your right to re-sell or use goods for which payment has not been made shall cease immediately and any such goods must be returned to us immediately or made available for collection by us.

Terms & Conditions

11. MATTERS BEYOND OUR CONTROL (FORCE MAJEURE)

- 11.1 If either you or we are delayed or prevented from performing our obligations under this contract by circumstances beyond the reasonable control of either of us, the party affected shall give details of those circumstances to the other party immediately and such performance shall be suspended for so long as those circumstances continue.
- 11.2 The affected party shall use all reasonable efforts to remedy the delay as soon as possible.
- 11.3 If the contract cannot be completed within a reasonable time either party may cancel this contract by written notice to the other party. You will pay to us such sum as may be fair and reasonable in all the circumstances for goods or services delivered by us under this contract prior to cancellation and in respect of which you have received the benefit.
- 11.4 Matters beyond our control shall be deemed to include (but shall not be limited to) any war, riot, act of God, fire, flood, Government regulation or act, any natural or accidental disaster, any strike, lockout or industrial dispute, or shortage of raw materials or fuel or any breakdown of machinery or telecommunications or any other cause outside the reasonable control of the party suffering such force majeure, but shall not in any circumstances include financial inability.

12. MISCELLANEOUS

- 12.1 These Terms and Conditions, together with any special conditions that may be agreed in writing, contain the entire agreement between us and supersede all prior representations (written or oral), understandings or agreements relating to the subject matter of this contract. No other agreements or collateral warranties shall be binding upon us. No variation shall be binding unless agreed in writing.
- 12.2 If any of these Terms and Conditions is found to be illegal or unenforceable in whole or in part that Term or Condition shall be deleted but the validity of the remainder of the Terms and Conditions shall not be affected.
- 12.3 Any delay by us in exercising any right will not mean that we have waived that right or any other right. A waiver by us of any breach of the contract shall apply only to that particular breach and shall not affect the continuance in force of these Terms and Conditions nor our right to rely upon them in respect of any other breach.
- 12.4 Any right reserved by us under these conditions is without prejudice to any other right or remedy open to us.
- 12.5 Any notice to be given under this contract shall be in writing, addressed to the other party at the last known address of that party and shall be deemed to have been duly given in the following circumstances, but not otherwise:
- 12.5.1 When delivered, if delivered by hand;
 - 12.5.2 When sent, if transmitted by fax during the recipient's normal business hours, or on the next business day if sent by fax outside the recipient's normal business hours; or
 - 12.5.3 On the second business day after posting, if sent by first class post or recorded delivery.
- 12.6 This contract is not intended to confer any benefit on any third party. The Contracts (Rights of Third Parties) Act 1999 and any collateral warranties are hereby expressly excluded.
- 12.7 You may not assign this contract without our prior written agreement.
- 12.8 Where any goods are to be exported from Great Britain under the contract, it is your responsibility to obtain all necessary licences, authorisations and consents and you will comply with all applicable laws, regulations and restrictions. You agree to indemnify us against all costs, claims and liabilities of whatever nature for which we may become liable as a result of your breach of this clause. Incoterms 2000 (or any modification or re-issue applicable at the date of the contract) shall apply to the construction or interpretation of any trade term. Unless otherwise agreed, in relation to any exported goods, delivery shall be ex-works country of origin.
- 12.9 The construction, validity and performance of these terms and conditions and this contract shall be governed by the laws of England and shall be subject to the exclusive jurisdiction of the English courts.