

Terms and Conditions of Quotation and Sale

The Company supplies Quotations and all present and after acquired goods (the Goods) to the Individual / Partnership / Company (the Customer) subject to the following terms and conditions of sale:

1.0 QUOTATION

- 1.1 Subject to clause 1.2 and 1.3 any quotation given by the Company will remain open for acceptance for 30 days from the date it is given and will lapse if not accepted within that period.
- 1.2 Where the Contract Price is not quoted as being a "fixed price" the Company may vary the Contract Price at any time to take account of any variation in the cost to the Company of performing the Contract by reason of:
- Any variation in labour or material costs;
 - Any cost variations arising due to the passing or issuing of any legislation or subordinate legislation or any order or direction pursuant thereto; or
 - Any fluctuations in currency values.
- 1.3 The Company may increase the Contract Price at any time, whether it was quoted as a "fixed price" or not, to compensate the Company for any losses it may suffer or additional costs it may incur as a result of:
- Special site allowances or site conditions which were not advised to the Company by the Customer prior to the date of the Company's quotation.
 - The Company being delayed for any reason beyond its control from attending to or completing the Contract.
 - The Customer requiring the Company to perform the Contract outside normal working hours.
 - Final dimensions for any of the goods to be supplied under the Contract varying from those detailed in the quotation due to site dimensions varying from information supplied to the Company.
 - Site framework concrete or masonry not conforming to specifications or site conditions varying from those advised or existing at the time of any inspection conducted by the Company prior to the date of the Company's quotation.
 - The Company providing penetrations, flashings or other work as may be required in addition to the works specified in the Company's quotation.
 - The Customer breaching any of the obligations listed in clause 1.4.
 - Any other cause beyond the control of the Company.

For the Company to perform the Contract works on site, the Customer will ensure that at no cost to the Company:

- Suitable vehicle off loading is possible within 20 metres of the Site; and
- Secure, adequate storage is available on the site for all of the Company's equipment and materials; and
- Adequate facilities and assistance (as are reasonably required by the Company) are provided to enable the Company to efficiently, comfortably and safely perform those works; and
- Detailed plans and drawings of the site and any other information as may be reasonably required by the Company are provided to the Company to enable it to efficiently perform the Contract; and
- Prior to commencement of the Contract, the Customer will obtain all licences, consents and approvals required for the performance of the Contract under any legislation, regulation or bylaw for the time being in force; and
- The Site at all times when work is being carried out under the Contract complies with the Health & Safety in Employment Act 1992.

2.0 TERMS OF PAYMENT

- 2.1 Unless a credit facility has been entered into with the Company payment in full is required prior to the commencement of work by the Company or the supply of any goods. Where a credit facility has been established then payment shall be in accordance with clause 2.2 to 2.6.
- 2.2 Unless otherwise agreed the Customer will pay a deposit of 20% of the Contract Price to the Company at the time the Contract is entered into.
- 2.3 The Company may issue Invoices requiring progress payments of the Contract Price during the performance of the Contract. If the Company adopts this course it will not invoice the Customer more than once in any 2 week period.
- 2.4 Unless otherwise stated in the quotation the Customer will pay the amount invoiced by the 20th of the following month..
- 2.5 Each payment to be made by the Customer will be made without set-off, deduction or counterclaim.
- 2.6 Interest shall be payable by the Customer on all amounts which are not paid by the due date which is 5% above the overdraft rate being paid by the Company to its Bankers from time to time.

3.0 DELIVERY

- 3.1 The Company shall not be liable for any loss or damage to the Goods during transportation even though such loss or damage may be caused by the Company's negligence or other default. This clause shall not prevent a Customer who is a Consumer as defined in section 2 of the Consumer Guarantees Act 1993 from exercising any remedies that Customer may have under that Act.
- 3.2 Dates given for shipment or delivery are stated in good faith but are not to be treated as a condition of sale. If the delivery of the Goods is delayed for any reason whatsoever, the Company shall not be responsible or liable in any way to the Customer or any other party for loss sustained due to such delay. Late delivery or failure to deliver does not entitle the Customer to cancel any order or part thereof.
- 3.3 The Company reserves the right to cancel delivery of the Goods or such instalments thereof without prejudice to its rights to recover all sums owing to it in respect of deliveries already made.
- 3.4 Delivery shall be made at the delivery address specified by the Customer.
- 3.5 No claim for any discrepancy in orders will be accepted unless it is made in writing to the Company within 48 hours of delivery.

- 3.6 The Company shall be entitled to cancel or suspend delivery of the Goods in the event of any delay or non-performance due directly or indirectly to wars, strikes, lock-outs, delays or defaults of manufacturers. The Customer shall have no claims whatsoever against the Company in consequence of any such cancellation or suspension.

4.0 WARRANTIES AND CONDITIONS

- 4.1 Specific product warranty as per quotation
- 4.2 If any works performed by the Company or any goods manufactured and supplied by the Company under the Contract are defective, the Company will rectify the defect by:
- Replacing or repairing (at the option of the Company) the defective goods; or
 - Rectifying the defective works as the case may be.
- 4.3 Any claim under this clause must be made upon the Company (by being mailed or delivered to the Company at the address of the Company appearing above) within 12 months of completion of the Contract.

5.0 LIMITATION OF LIABILITY

- 5.1 The Company's liability in any case of defect or default, is limited to the purchase price of the Goods in respect of which such defect or default arises, the Company having no further liability or responsibility for any direct, indirect or consequential injury, loss or damage howsoever arising. This clause shall not prevent a Customer who is a Consumer as defined in section 2 of the Consumer Guarantees Act 1993 from exercising any remedies that Customer may have under that Act.
- 5.2 The Company shall have no liability whatsoever for claims if:
- The Goods are in any way adapted to a use for which they are not specifically intended; or
 - The Goods are added to or repaired using components not recommended or approved by the manufacturer of the Goods.

6.0 SEVERABILITY

- 6.1 If any of these terms and conditions is held by a Court to be ineffective by virtue of illegality or otherwise, then such condition, or part of it, shall be severed from all other conditions without affecting the validity or enforceability of all other conditions or part of them.

7.0 DEFAULT

- 7.1 Where the Customer is in default under these terms and conditions, or any other contract between the Customer and the Company, the Company may:
- Demand payment of all or part of any sums whether due or not; and/or
 - Require security for such obligations to its full satisfaction before any further supplies are made to the Customer; and/or
 - Withhold without notice deliveries of goods ordered by the Customer; and/or
 - Charge interest pursuant to clause 2.6; and/or
 - Appoint a receiver in respect of Goods (including proceeds of the same) supplied by the Company under these terms and conditions; and/or
 - Cancel this or any other contract between the parties.
- 7.2 Without prejudice to its other remedies, the Company shall be entitled to cancel this and any other contract for supply with the Customer in the following circumstances:
- If the Customer becomes insolvent or is adjudicated bankrupt; or
 - If a receiver is appointed in respect of the assets of the Customer; or
 - If the Customer no longer carries on business or threatens to cease carrying on business; or
 - If an arrangement with the Customer's creditors is made or is likely to be made; or
 - If the ownership or effective control of the Customer is transferred or the nature of the Customer's business is materially altered.
- 7.3 The Customer shall pay all costs incurred by the Company, including costs on a solicitor-client basis and debt collectors' costs incurred in the recovery or attempted recovery of outstanding moneys and the enforcement of these terms and conditions.

8.0 OWNERSHIP AND RISK

- 8.1 Notwithstanding any period of credit, legal and beneficial ownership of any and all Goods shall remain with the Company until payment in full is made for them and for all other Goods supplied by the Company to the Customer.
- 8.2 Notwithstanding that ownership in the Goods may not have passed to the Customer; risk in the Goods shall pass to the Customer when the Goods are delivered to the Customer. The Customer shall be obliged to insure the Goods from the time of delivery to the Customer and pending payment in full insure the Goods in the name of the Company and the Customer for their respective interests. The Customer shall provide the Company with proof of insurance if requested to do so by the Company.
- 8.3 The Customer holds the Goods as bailee for the Company until payment for the Goods is made in full. The Customer will store the Goods in such a manner that they are clearly identifiable as the property of the Company and will keep separate records in respect of the Goods.
- 8.4 If the Goods are sold or otherwise disposed of by the Customer prior to payment in full, the Customer will have been deemed to have done so as agent for the Company and the proceeds of such sale will be the property of the Company. The Customer will hold the proceeds of such sale on trust, on account for the Company, and keep them in a separate fund from its own money.

8.5 If any of the Goods are mixed or incorporated in other Goods (the "Mixed Goods") before payment, the property in the mixed goods shall be and remain with the Company until such payment has been made in full. The Customer shall hold the Mixed Goods as bailee for the Company and will store the Mixed Goods in a manner that they are clearly identifiable as the property of the Company and will keep separate records in respect of the same. If the Customer sells the Mixed Goods it will:

- a) hold the proceeds of sale on trust for the Company; and
- b) account to the Company for the value of the Goods; and
- c) keep the proceeds in a fund separate from its own money and will keep separate records in respect of such money.

8.6 Where the Company has reasonable cause to believe:

- a) The Customer has not strictly complied with these terms and conditions and, in particular, is in default of payment in accordance with clauses 1 and 6; or
- b) The Customer has or will commit an act of bankruptcy or (being a company) has had a receiver appointed or about to be appointed, or is declared insolvent;

Despite section 109 of the Personal Property Securities Act 1999, and in addition to the rights contained in that section, the Company may recover any or all of the Goods or the Mixed Goods and resell them and for such purpose may at any time of the day or night enter by force if necessary upon any premises where such Goods or Mixed Goods are reasonably thought to be stored (and the Customer grants the Company an irrevocable right and authority to so recover, re-enter and resell) PROVIDED THAT the Company may only recover and resell for its own account sufficient of the Good and/or Mixed Goods to satisfy all unpaid liability in respect of the Goods and the costs of resale. If the Company recovers any excess, it shall not be liable in damages but shall account for the excess to the Customer. The Company and its employees or agents shall not be liable for any loss or damage whatsoever incurred as a result of seizure, repossession or removal of goods from any premises pursuant to this clause.

8.7 The Customer shall not charge the goods in any way nor give any interest in the goods while they remain the property of the Company.

8.8 In exercising its rights pursuant to this clause, the Company shall be entitled to deduct from any sale of Goods or Mixed Goods recovered from the Customer all the liabilities and expenses (including legal expenses) incurred by the Company in enforcing or attempting to enforce its rights pursuant to his clause 7.

8.9 The Customer shall immediately inform the Company of any event or events likely to be adverse to the Company's proprietary rights in respect of the goods or any of them.

9.0 PERSONAL PROPERTY SECURITIES ACT 1999

9.1 The Customer grants to the Company a security interest in all present and after acquired Goods and their proceeds.

9.2 On the request of the Company the Customer shall promptly execute any documents and do anything else required by the Company to ensure that the security interest created under this Agreement constitutes a first ranking perfected security interest over the Goods and their proceeds including providing any information the Company reasonably requires to complete a financing statement or a financing change statement. The Customer waives any right to receive a copy of a verification statement under the Personal Property Securities Act 1999.

9.3 The Customer irrevocably appoints the Company and any Receiver appointed by the Company severally, to be the Customer's attorney to do and sign anything the Customer has agreed to do; or that is considered by the Company or the Attorney to be necessary, desirable or expedient, in the Customer's or his, her or its discretion for the purpose of giving complete effect to this agreement and the exercise and enforcement of any Rights, including the exercise or enforcement of any Rights in relation to the Goods to our exclusion. Each Attorney may delegate his, her or its powers (including this power of delegation) to any person and may revoke any delegation he, she or it has made. The Customer will not challenge the validity of, and will agree to ratify anything done by an Attorney in accordance with this clause.

9.4 The Customer will pay to the Company all costs, expenses and other charges incurred, expended or payable by the Company in relation to the filing of a financing statement or a financing change statement in connection with these terms and conditions.

9.5 The Company and the Customer agree that nothing in sections 114(1)(a), 117(1)(c), 133 and 134 of the Personal Property Securities Act 1999 shall apply to these terms and conditions.

9.6 The Company and the Customer also agree that the rights of the Customer as debtor in sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the Personal Property Securities Act 1999 shall not apply to these terms and conditions.

9.7 The Customer shall:

- a) indemnify the Company for any costs incurred by the Company in registering, maintaining, enforcing and / or attempting to enforce the security interest created by this agreement; and
- b) immediately upon request by the Company procure from any person or organisation considered by the Company to be relevant to its security interest, such agreements and waivers as the Company may require; and
- c) immediately notify the Company of any change in the Customer's name.

10. ACKNOWLEDGEMENT

10.1 The Customer acknowledges that it has received a copy of these terms and conditions and in particular that the terms contained in this Agreement constitute a security agreement for the purposes of the Personal Property Securities Act 1999.