

**TERMS AND CONDITIONS OF SALE****1. QUOTATIONS AND TERMS OF CONTRACT**

- (a) Unless otherwise agreed in writing by us, all contracts relating to the supply of equipment by us shall be governed by these terms and conditions. No other terms, conditions or warranties put forward by the customer shall form part of any contract between ourselves and the customer.
- (b) All orders for equipment shall be deemed to be an offer by the customer to purchase equipment pursuant to these Conditions.
- (c) Quotations are effective for 60 days unless otherwise specified or are previously withdrawn and are subject to corrections for omissions and typing errors.
- (d) Contracts will come into existence only on the issue of a written acceptance by us of the customer's order delivered by hand, post, fax or e-mail. (Such acceptance being referred to in these conditions as an "Acknowledgement").
- (e) Acceptance of delivery of the equipment shall be deemed conclusive evidence of the customer's acceptance of these terms and conditions.
- (f) Representations or statements made by us or by our employees or agents will not form part of any contract with us unless they have been expressly incorporated into the contract in writing.

**2. PRICES**

Our prices are those stated in our quotations and confirmed in our Acknowledgement. Packing, carriage, Value Added Tax (where applicable) and in the case of export orders any imports, dues, taxes or other charges are additional to the quoted price and payable by the customer, whether or not in existence at the date of quotation or contract, unless otherwise agreed by us in writing.

Where quotations are in currencies other than pounds sterling the price may be changed in the Acknowledgement to take account of variations in the exchange rate applicable to that other currency and sterling between the date of the quotation and of the Acknowledgement.

**3. TERMS OF PAYMENT**

- (a) For United Kingdom contracts on a credit basis, payment shall be made before the last day of the month following the date of invoice, unless otherwise stated. For direct export contracts on a credit basis, payment shall be made 60 days from the date of the invoice, unless otherwise stated.
- (b) For contracts not expressed to be on a credit basis, equipment will be despatched on our receipt of cash payment. If payment is not received within 28 days after notification that the equipment is ready for despatch, we shall be entitled to treat the order as cancelled and make a cancellation charge or at our discretion to arrange and charge for storage and insurance.
- (c) If any payment is not made when due, we shall be entitled to charge interest at the rate of 3% per annum above the National Westminster Bank base rate on the daily balance outstanding from the due date until payment is made and shall accrue after as well as before any judgement.
- (d) The customer may not set off against the price for the equipment (including any applicable VAT payable) amounts due from us whether under the same contract or otherwise.

**4. PROPERTY AND RISK**

- (a) If we have agreed to deliver the equipment to the customer's premises or to a site specified by the customer, risk shall pass to the customer on delivery unless otherwise stated.
- (b) If we have not agreed to deliver the equipment to the customer's premises or a site specified by the customer, risk shall pass to the customer on collection from our premises by the customer or its carrier, unless otherwise stated.
- (c) In any export contract (as defined in "Incoterms 2020") risk shall pass to the customer as provided by those contracts.
- (d) Notwithstanding the passing of risk in the equipment, the property in the equipment shall not pass to the customer until we have received payment in full of the price of the equipment.
- (e) Until the property in the equipment passes to the customer, the customer shall hold the equipment on a fiduciary basis as bailee for us and shall keep the equipment separate from that of the customer and third parties and properly stored and protected and insured and clearly identified as our property.
- (f) Until that time the customer shall be entitled to sell or use the equipment in the ordinary course of its business at full market value for our account but shall account to us for the proceeds of sale including insurance proceeds separate from any moneys or property of the customer and third parties and in the case of tangible proceeds and keep the equipment properly stored protected and insured.
- (g) Any such sale or dealings shall be a sale or use of our equipment by the customer on the customer's own behalf and the customer shall deal as principal when making such sales or dealings. Until property in the equipment passes from us the entire proceeds of sale or otherwise of the equipment shall be held in trust for us and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as our money.

- (h) Until such time as the property in the equipment passes to the customer (and provided the equipment is still in existence and has not been sold) we shall be entitled at any time to require the customer to deliver up the equipment to us and if the customer fails to do so forthwith to enter upon any premises of the customer or any third party where the equipment is stored and repossess the equipment.
- (i) The customer shall insure and keep insured the equipment to the full price against all risks and to our reasonable satisfaction until the date that the property in the equipment passes from us and shall whenever requested by us produce a copy of the policy of insurance. Without prejudice to our other rights, if the customer fails to do so all sums whatever owing by the customer to us shall forthwith become due and payable.

## **5. DELIVERY**

- (a) Despatch will be in accordance with our Acknowledgement.
- (b) Partial despatch will be made at our discretion.
- (c) Notwithstanding that we may have delayed delivery of the equipment (or any of it) promptly the customer shall be bound to accept delivery and to pay for the equipment in full provided that delivery shall be tendered at any time within [three] months of the delivery date referred to in the contract.
- (d) Time for despatch is given as accurately as possible but it is not the subject of any condition, warranty or representation. We shall not be responsible for any loss or damage whatever due to failure by us to deliver the equipment (or any of it) promptly or at all.
- (e) No claim for damaged equipment for shortages or for non-delivery will be accepted by us unless written notice of such damage or shortage is received by us within [3] days of receipt of the equipment by the customer or within [28] days of the defect being discovered where the defect could not reasonably have been discovered earlier or (in the case of non-delivery) the customer shall notify us of any non-delivery within [14] days of the date of despatch (as stated on the invoice). Notwithstanding the receipt by us of any such notice a clear signature on a carrier's delivery advice sheet shall be deemed to signify receipt of the equipment indicated on the advice sheet.
- (f) Method of carriage will be at our discretion unless otherwise agreed.

## **6. EXPORT CONTRACTS**

- (a) If the contract provides for the delivery FOB, we shall deliver the equipment on board a vessel named by the customer or on the customer's behalf at the port stated in the contract, and we shall not be required to give the customer the notice relating to insurance mentioned in section 32(3) of the Sale of Goods Act, 1979. We shall promptly provide the customer with a clean shipped bill of lading in respect of the equipment. The customer shall bear any additional costs caused due to the failure of the vessel identified by the customer to be available to load the equipment on the delivery date.
- (b) If the contract provides for delivery CIF or CFR we shall deliver the equipment at the port stated in the contract. No lighterage, landing charges, dock, wharf or customs dues are included. Freight and insurance charges (where applicable) are based on the rates obtainable at the date of our quotation. If these rates are increased or decreased from any cause between the date of quotation and the date on which the equipment is shipped, the contract price will be changed to account of such increase or decrease by the net amount of the increase or decrease due to the variation of such rates.
- (c) In the case of CIF contracts, the equipment shall be delivered to the customer at the Port identified by them on or before the delivery date. We shall procure a contract of carriage and insure the equipment from dispatch until delivery on terms current in the trade for the benefit of the customer. The equipment shall be at the risk of the customer as they are loaded on board. We shall promptly tender to the customer a clean shipped bill of lading and the insurance policy or a document certifying in proper form that insurance has been effected (and whether or not other goods are included in or covered by such insurance) and endorsed by us may, at our option, be tendered instead of a policy of insurance in respect of any equipment shipped. The customer shall accept such documents in lieu of any policy, together with invoice /invoices and bill/bills of lading, as complete tender of shipping documents by us. We shall bear all other costs and charges arising out of shipment of the equipment to the port named by the customer.
- (d) In the case of CFR contracts, transit insurance having been omitted, we shall, if so required in good time by the customer, be prepared to give the customer such notice as will enable the customer to insure the equipment during transit. In the absence of such request we shall not be liable for failure to give the customer such notice under Section 32(3) of the Sale of Goods Act 1979.
- (e) (Incoterms 2020) All non UK shipments must follow the contract incoterm.

## **7. STORAGE**

If we do not receive forwarding instructions sufficient to enable us to despatch the equipment within 14 days after the date of notification that it is ready for despatch, the customer shall take delivery or arrange for storage. If he does not we shall be entitled to arrange and charge for storage and insurance and the full price of the equipment shall become due at the start of the storage.

## **8. INSPECTION**

Visual inspection by the customer's representative can be arranged on request and without charge. Functional tests, witnessed by the customer's representative, can be arranged at extra charge if requested on the order. Seven days' notice will be given of such tests and, if the customer fails to attend, tests will be deemed to have been waived and the equipment will be despatched or the other appropriate provisions of the contract shall take effect.

## **9. COMMISSIONING**

Commissioning is not included in the price unless specifically referred to in the quotation.

**10. DESCRIPTION**

All descriptions, drawings and other particulars furnished in catalogues, price lists and other documents issued by us are as accurate as possible but, being given for general information, shall not form part of the contract unless specifically confirmed by us in writing.

**11. WARRANTY**

- (a) We will make good, by repair or the supply of a replacement, defects which, under proper use, appear in the equipment within a period of thirty six calendar months after the equipment has been despatched and arise from faulty designs, materials or workmanship provided always that defective parts have been returned to us if we shall have so required.
- (b) We shall have no liability under this clause if the full price for the equipment has not been paid. This warranty only applies to products manufactured by us. Products not manufactured by us are covered by the warranty of the product manufacturer.
- (c) We shall be under no liability whatever to the customer for any indirect loss and/or expense (including loss of profit) suffered by the customer arising out of a breach by us of this contract.
- (d) The customer shall inspect the equipment on delivery and shall within [3] days of delivery notify us of any alleged defect or damage. The customer shall give us an opportunity to inspect the equipment within a reasonable time following delivery and before any use is made of it. If the customer shall fail to comply with these provisions the equipment shall be conclusively presumed to be in accordance with the contract and free from any defect or damage which would be apparent on a reasonable examination of the equipment and the customer shall be deemed to have accepted the equipment.
- (e) Our liability under this clause shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of the equipment and save as provided in this clause we shall not be under any liability, whether in contract, tort or otherwise, in respect of defects in equipment delivered or for any injury (other than personal injury caused by our negligence as defined in section 1 of the Unfair Contract terms Act, 1977), damage or loss resulting from such defects or from any work done in connection.
- (f) In the event of any breach of this contract by us the remedies of the customer shall be limited to damages. Under no circumstances shall our liability exceed the price of the goods.

**12. INSOLVENCY OF THE CUSTOMER**

All sums outstanding in respect of the equipment shall become payable immediately and we may in our absolute discretion and without prejudice to any other rights which we may have (i) suspend all future deliveries of equipment to the customer and/or terminate the contract without liability on our part and/or (ii) exercise any of our rights pursuant to clause 4(d) to (i) inclusive in any of the following circumstances:-

- (a) if the customer fails to make payment for the equipment in accordance with this contract or commits any breach of this contract of sale or
- (b) if the customer offers to make any arrangement with its creditors or if any petition in bankruptcy is presented against the customer or the customer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the customer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or
- (c) if an administrative receiver or manager shall be appointed over the whole or any part of the customer's business or assets or if any petition for the appointment of an administrator is presented against the customer or if the customer shall suffer any analogous proceedings under foreign law or
- (d) if the customer ceases, or threatens to cease, to carry on its business or we reasonably apprehend that any of the events referred to in this sub-clause is about to occur in relation to the customer and notify the customer accordingly.

**13. STATUTORY AND OTHER REGULATIONS**

If the cost to us of performing our obligations under the contract shall be increased or reduced by reason of the making or amendment, after the date of our quotation, of any law or of any order, regulation, or bye-law having the force of law that shall affect the performance of our obligations under the contract, the amount of such increase or reduction shall be added to or deducted from the contract price as the case may be.

**14. JURISDICTION**

The parties submit to the exclusive jurisdiction of the Courts of England and Wales and irrevocably agree the proceedings issued out of the said Courts may without prejudice to the rules of service of such Courts be served on them by delivering such proceedings in an envelope addressed to the party to be served at the address for such party set out in the contract.