

Standard Conditions

1. Definitions:

- 1.1 "Customer" means the person whose name and address appears in or adjacent to a box marked "Customer".
- 1.2 "Conditions" means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Company.
- 1.3 "Delivery Date" means the date specified by the Company when then Goods are to be delivered or installed, whichever is the later.
- 1.4 "Goods" means the catering and other equipment and articles which the Customer agrees to purchase from the Company.
- 1.5 "Price" means the price of the Goods excluding carriage, packaging, insurance and VAT.
- 1.6 "Company" means the person whose name and address appears on any headed paper, invoices, orders, Customer orders, delivery notes or job sheets.

2. Conditions Applicable:

- 2.1 Any tender or quotation by the Company is deemed withdrawn unless accepted in writing by the Customer within 30 days from its date. On acceptance by the Customer of any tender or quotation the Company will only be bound by the order when written confirmation has been given by the Company and after subject to the provisions of clauses 2.2 and 2.3
- 2.2 The Company is permitted to verify that the Customer has the necessary funds before commencing manufacture. If the Customer does not have the necessary funds then the Company is entitled at their discretion to cancel the contract or delay manufacture until such time as the Customer can prove he has the money due and in those circumstances the Company can then claim interest at 12% per annum from the Customer for the period of delay, in addition to the price together with any other financial loss suffered by the Company.
- 2.3 Where the Customer has informed the Company of facilities to be provided by a Finance Company in respect of the price all signed and completed documents relating to the Loan Agreement must be handed to the Company and the provisions of clauses 2.2., 4 as to Price and 8 as to Retention of Title shall apply.
- 2.4 Acceptance by the Customer in accordance with clause 2.1 shall be deemed conclusive evidence of the Customer's acceptance of these conditions to the exclusion of all other terms and conditions including any terms and conditions which the Customer may purport to apply under any purchase order confirmation of order or similar document.

The Customer warrants to the Company that the person signing the acceptance on behalf of the Customer has the necessary authority to do so and to bind the Customer.

2.5 No variations, additions, representations, warranties, statements or undertakings (whether oral or in writing) shall have effect unless the same shall be in writing and signed by the authorised representative of the Company.

3. Information:

- 3.1 Any information from the Customer necessary to enable the Company to proceed with any order must be furnished by the Customer to the Company in writing within 7 days of the written confirmation mentioned in clause 2.1 the company confirm compliance with legislative government data protection 2018, otherwise the Company may as its option delay results as a result of the Customer's default.
- 3.1.1 Cancel the order in which the Customer shall be liable to the Company for any consequential loss to the Company or
- 3.1.2 Charge the Customer a sum additional to the price equivalent to interest at the rate of 12% per annum on the price on a daily basis for each day of delay
- 3.2 Unless specifically guaranteed in writing no dimensions, details or statements as to capacity, output of power specified or contained in any drawings, catalogues specification or other documents or any illustrations referred to are to be treated as contractual. The Company reserves the right to make such minor changes in specifications as conditions beyond its control may require or will in its judgement be improvements.

- 3.3 The Company accepts no responsibility for its or foundations of (except when supplied by the Company) for any frameworks or supports for machinery or for compliance with statutory regulations or local by-laws or the fulfilment of any special requirements binding on the Customer. The Customer is responsible for the proper adaptation of the Company's designs to the Customer's own circumstances.
- 3.4 If installation and/or commissioning of the Goods is prevented, delayed or impeded by any act or omission the Customer shall pay a sum in addition to the price calculated in accordance with paragraph 3.1.2 for each day of delay resulting from the Customer's default
- 3.5 The Customer shall forthwith 1 (so far as it is possible to do so) comply with all the requirements any Government control in operation at or coming into operation after the date of the Contract and the Company shall not be required to proceed pending compliance by the Customer with such requirements.
- 3.6 The Customer shall grant the Company's workmen, representatives and employees, access to the premises of the Customer where the Goods are to be installed at all reasonable times for the purposes of making plans, taking measurements, delivering materials, carrying out the works forming the subject of the contract and for any substantial remedial work if required. If a date and time for such access has been agreed between the Customer and the Company and is then subsequently refused or denied by the Customer then the Customer will be liable for any financial loss by the Company as a consequence of the Customer's actions.

3.7 If at any times between acceptance in accordance with clause 2.1 and installation it becomes apparent to the Company from inspection of the Customer's premises or otherwise that the delivery and/or installation of the goods shall create a risk of injury to other loss or damage the servants agents or employees of the Company the Customer may at its option give notice in writing to the Customer requiring the Customer at the Customer's expense to make the premises safe to satisfaction of the Company, or cancel the Contract retaining the deposit, and the Company shall not be liable for any loss, costs, claims or demands of the Customer consequential or otherwise resulting directly or indirectly from such a cancellation.

4. Price:

- 4.1 The price shall be the price set out overleaf. The price is exclusive of VAT which shall be due at the rate ruling the Delivery date
- 4.2 The Customer shall pay by way of deposit a sum equal to 30 % of the price on acceptance by the Customer in accordance with clause 2.1. The Company will not proceed with the order unless the deposit has been paid if this order is cancelled for whatever reason, the Customer shall forfeit the deposit to the Company by way of liquidated damages.
- 4.3 Payment of the balance of the price and VAT shall be made to the Company's authorised agent or representative immediately on delivery. Cheques or money orders must be made payable to the Company and crossed "account payee only" and only the Company's official receipt shall be valid. If payment is not made delivery shall not be effected.

Time for payment shall be of the essence. The provisions of this clause shall not be varied except with the express written agreement of the authorised representative of the Company.

4.4 The Contract price will be payable by the Customer in strict accordance with the Contract terms notwithstanding any delay in delivery or performance under the Contract or any adjustments or correction of minor defects which may be required to the Goods. The Company may suspend performance of any contractual obligation to the Customer so long as any account of that Customer is overdue or any other sum due from the Customer to the Company is outstanding.

4.5 Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 12% per annum and shall accrue at such a rate after as well as before any judgement.

4.6 If between the date of the Company's tender or the date of the order (whichever date is the earlier) and the when Goods are ready for despatch to the Customer or installed by the Company (whichever shall be the later) there shall be any increase in the cost to the Company for materials, labour, or any other expenses arising in connection with the Contract (including but not limited to freight, insurance and other transit charges when the Company is responsible for them) the Company shall be entitled to charge in addition to the price a sum equal to the cost of such increase.

4.7 Prices quoted to include installation and commissioning are based on the Company's normal working hours and overtime will be charged extra. Preparation of proper site with suitable foundations and access thereto, off-loading, storing and protecting materials supplied, the provision of all necessary lifting tackle, fuel, water, oil, waste and other house stores, and sufficient rough labour and assistance to enable the Company to proceed and complete the installation undertaken, and to start and to set to work the Goods are the responsibility of the Customer and not the Company.

4.8 The provisions of this clause 4 and clause 8 and their respective sub-clauses shall apply to payment and other sums due from the Customer to the Company for work done and materials supplied by the Company to the Customer in the servicing of the Goods by the Company.

5. Delivery and Performance:

- 5.1 The Company will deliver the goods to the Customer. If the Customer requests other arrangements for delivery prior payment of the balance of the price in cleared funds shall be made and the despatch from the Company's premises of any consignment constitutes delivery of the consignment into the Customer's possession. After such despatch the Company as Bailee accepts the responsibility for safety of the consignment and takes the risk of any loss or injury thereto howsoever caused which may occur before the property and the consignment passes to the Customer. The Customer shall keep the consignment fully insured and shall indemnify the Company against any such loss or injury.
- 5.2 Times or date for delivery or performance of business estimates only are not contractual obligations for the Company. The Company will make every endeavour to deliver or perform by the time or date given but will not accept cancellation or be liable for any loss claimed to have arisen from any delay.
- 5.3 If performance of any obligation accepted by the Company is prevented, delayed or interfered with by any act of God, war, strike, lock-out, industrial action, fire, flood, drought, tempest or other even beyond the reasonable control of the Company the Company may at its option suspend performance or cancel the obligation and shall be paid a reasonable price for work already done, or retain the deposit at the option of the Company.
- 5.4 Without prejudice to the generality of sub-clause 5.3 of this clause a cause beyond the Company's control as referred to in that sub-clause shall be deemed to include any restriction created by any government control from time to time in operation.

6. Provisions of Labour

Where the Company provides any labour at the Customer's works the Customer shall indemnify the Company against the consequences of any defect or unsuitability of any tackle, plant or apparatus provided by the Customer and against any claims by third parties and claims by common law or by statute.

7. Customer Dissatisfaction:

All Goods and work shall be deemed to have been accepted by the Customer as in complete conformity with the Contract unless within 14 days after actual receipt by the Customer of the Goods or (where the Company is responsible for installation) after the Goods are ready for starting up, written notice is given to the Company specifying grounds for the Customer's dissatisfaction.

8. Retention of Property:

- 8.1 The Goods shall be at the Customer's risk as from delivery
- 8.2 In spite of delivery having been made property in the Goods shall not pass from the Company until:
 - 8.2.1 The Customer shall have paid the price plus VAT in full and
 - 8.2.2 No other sums whatever shall be due from the Customer to the Company
- 8.3 Until property in the Goods passes to the Customer in accordance with clause 8.2 the Customer shall hold the Goods in each of them on a fiduciary basis as Bailee for the Company. The Customer shall store the Goods (at no cost to the Company) separately from all other Goods in its possession and marked in such a way that they are clearly identified as the Company's property.
- 8.4 Notwithstanding that the Goods (or any of them) remain the property of the Company the Customer may sell or use the Goods in the ordinary course of the Customer's business at full market value for the account of the Company. Any such sale or dealing shall be a sale or use of the Company's property 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 Goods passes from the Company the entire proceeds of sale (or otherwise the Goods) shall be held in trust for the Company and shall not be mixed with other money or paid into any overdrawn bank account and shall be, at all material times identified as the Company's money.
- 8.5 The Company shall be entitled to recover the price (plus VAT) notwithstanding that property in any of the goods has not passed from the Company.
- 8.6 Until such time as property in the Goods passes from the Company to the Customer shall upon request deliver up the Goods. If the Customer fails to do so the Company may enter upon any premises owned occupied or controlled by the Customer where the Goods are situated and repossess the Goods.

On the making of such request the rights to the Customer under clause 8.4 shall cease. The Customer shall remain liable to the Company for any sum due to the Company from the Customer notwithstanding repossession and/or resale of the goods by the Company save that in the latter case of the proceeds of the sale shall be set off against such sums as are due from the Customer to the Company but the Customer shall pay in addition the costs incurred by the Company in repossession and resale. If following repossession or resale and after taking into account additional costs, there shall be a balance due from the Customer, the Company shall account to the Customer for that balance.

8.7 The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Company. Without prejudice to the other rights of the Company, if the Customer does so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

8.8 The Customer shall insure and keep the insured the Goods to the full price against "all risks" to the reasonable satisfaction of the Company until the date the property in the Goods passes from the Company and shall whenever requested by the Company produce a copy of the policy of insurance. Without prejudice to the other rights of the Company, if the Customer fails to do so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

8.9 The Customer shall promptly deliver the prescribed particulars of this Contract to the registrar in accordance with Companies Act 1985 part XII as amended. Without prejudice to the other rights of the Company, if the Customer fails to do so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.

8.10 Clause 8.6 shall apply in the case of any default by the Customer after delivery of Goods and before the Goods have become the Customer's property.

9 Intellectual property:

The specifications and designs of the Goods (including the copyright, design right or other intellectual property in them) shall as between the parties be the exclusive property of the Company and shall not be disclosed by the Customer to any third party without the prior written consent of the Company. Where any designs or specifications have been supplied by the Customer for manufacture by or to the order of the Company then the Customer warrants that the loss of those designs and specifications for the manufacture, processing, assembly or supply of the Goods shall not infringe the rights of any third party.

10. Failure to pay:

If the Customer fails to make payment for the Goods in accordance with these conditions or commits any other breach of these conditions or if any distress or execution shall be levied upon any of the Customer's goods or if the Customer offers to make any arrangement with his creditors or commits an act of bankruptcy or if any petition in bankruptcy is presented against the Customer or the Customer is unable to pay his debts as they fall due or if being a limited Company any resolution or petition to wind up the Company (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a Receiver, Administrator, Administrative Receiver, or Manager shall be appointed over the whole or any part of the Customer's business or assets or if the Customer shall suffer any analogous proceedings under foreign law, all sums outstanding in respect of the Goods shall become payable immediately. The Company may in its absolute discretion without prejudice to any other rights which it may have.

10.1 Suspend all future deliveries of Goods to the Customer and/or terminate the contract without liability on its own part and/or

10.2 exercise any of its rights pursuant to clause 8

11. Withholding of Payment

The Customer may not withhold payment of any invoice or other amount due to the Company by reason of any right of set-off or counterclaim which, the Customer may have or allege to have or for any reason whatsoever.

12 Servicing:

Servicing the Goods shall be carried out by the Company, 12 months after installation and commissioning and each month thereafter at the premises of the Customer where the Goods are installed subject in each case to payment having been made in full by the Customer to the Company of all sums then due by the Customer to the Company. The provisions of clause 3.6 as to access shall apply to this clause.

13 Limitations on the Company's Liability:

In addition to any other limitations in these conditions the Company shall not be liable for:

- 13.1 Damage due to accident, storm, flood, neglect, misuse, or faults or premature deterioration which results from the Customer's failure to comply with the Company's maintenance instructions which are contained in a brochure which will be handed by the authorised representative of the Company to the Customer on installation and/or commissioning and the Customer shall acknowledge that he has received such a brochure and that he will comply with the conditions in it.
- 13.2 Damage resulting from structural or other defects in the premises at which the installation is carried out.
- 13.3 Damage or other defects resulting from the failure of the Customer to have the Goods serviced by the Company or use by the Customer or parts other than those provided by the Company.

14. Guarantee:

On delivery or installation and commissioning of the Goods if such installation and commissioning is part of the contract and upon payment by the Customer to the Company of all sums due from the Customer to the Company under this contract the Company will provide the Customer with a guarantee certificate.

14.1 Any guarantee issued by the Company to a Customer is not transferable.

14.2 The guarantee excludes damage caused by the Customer's failure to comply with the Company's said maintenance instructions and minor defects occurring more than 7 days after the guarantee date.

15. Miscellaneous:

- 15.1 All headings are for ease of reference only and shall not affect the construction of this contract.
- 15.2 Any provision of this contract which is or may be void unenforceable or unreasonable shall to the extent of such invalidity unenforceability or unreasonableness be deemed severable and shall not affect any other provisions of this Contract.
- 15.3 No waiver or forbearance by the Company (whether express or implied) in enforcing any of its rights under this contract shall prejudice its rights to do so in the future.
- 15.4 This contract is subject to the law of England and Wales
- 15.5 If any dispute or difference shall arise between the parties as to the meaning of this contract or any matter or thing arising out of or connected with this contract then it shall be referred to the determination of an Arbitrator to be appointed by the agreement of the parties or (in default of agreement within 21 days of the service upon one party of a written request to concur in such appointment) by the President for the time being of Chartered Institute of Arbitrators.

15.6 Should any dispute or difference arise in connection with or arising out to the contract either party may request that the dispute be referred to mediation by a person agreed between the parties. Should the parties fail to agree upon the person to be appointed mediator within seven days of a request being made to do so either party may apply to the British Academy of Experts for the appointment of Mediator. The mediation will be conducted in accordance with the guidelines for mediation published by the British Academy of Experts. Following a request for mediation by either party any timetable for arbitration contained in this Contract shall be suspended until either party serves a notice in writing upon other terminating the mediation.

For the avoidance of doubt, if the mediation does not resolve the matter within four months of the commencement of the mediation then either party is free to pursue litigation as it thinks fit.