

ATC PROPERTY MAINTENANCE LTD

CONDITIONS OF SALE

DEFINITIONS

In these conditions:-

- (a) "The Company" means ATC Property Maintenance Ltd.
- (b) "The Customer" means the party to whom a tender or quotation is addressed or whose order is accepted by the company

GENERAL

- 1.1 All quotations and all orders are accepted subject to these conditions. All other terms and conditions warranties whatsoever are excluded from the contract or any variation thereof unless expressly accepted by a duly authorised Director of the Company in writing.
- 1.2 Quotations, offers and tenders are for the whole of the Good or services for which quotations are given by the Company and the Company reserves the right to refuse acceptance of any order which constitute only part of the goods or services forming the subject of the quotation, offer or tender.
- 1.3 Quotations shall be available for acceptance for a period of 28 days from the date thereof but may be withdrawn by the Company at any time by written or oral notice following expiry of such date.
- 1.4 If any statement or representation has been made to the customer by the Company, its servants or agents upon which the customer relies, other than those in the documents enclosed with the Companies quotation or acknowledgment or order, then the customer must set out that statement or representation in a document to be attached to or endorsed on the order and in any such case the Company may confirm, reject or clarify the point and submit a new quotation.

PRICES

- 2.1 All prices are unless otherwise stated quoted net ex works exclusive of VAT and the Company reserves the right in the event of any increase in the cost of labour, transport cost or increase in the cost of materials or overheads to vary the prices from that at the contract date. Any increase in such costs during the period of the contract will be added to the quoted price and Goods will be invoiced at the price ruling as at the date of despatch thereof.
- 2.2 No goods are supplied by the Company on a sale return basis.

TERMS OF PAYMENT

- 3.1 Except as otherwise set forth on the front of an invoice, terms of payment are net 30 days from invoice date.
- 3.2 The Company shall be entitled to submit its invoice with its delivery advise note or at the time thereafter save that where delivery has been postponed at the request of or by default of the Customer then the Company may submit its invoice at any time after the Goods are ready for delivery or would have been ready in the ordinary course but for the request or default is aforesaid.
- 3.3 Where Goods or services are delivered by instalments the Company may invoice each instalment separately and the Customer shall pay such invoices in accordance with these Conditions.
- 3.4 No disputes arising under the contract or delays beyond the reasonable control of the Company shall interfere with prompt payment in full by the Customer.
- 3.5 In the event of default in payment by the Customer the Company shall be entitled without prejudice to any other right or remedy to suspend all further delivery of Goods and/or services and to charge interest on any amount outstanding at the rate of 7.5% per annum above the Base Rate of HSBC Bank PLC in force at the time when payment was due.
- 3.6 Any works where quoted or estimate to exceed £5000 net, shall be expected to pay a 30% payment prior to the commencement of any work.
- 3.7 Where works last 3 weeks or more, interim payments will be required.

DELIVERY

- 4.1 Times for delivery of the Goods/services are given as accurately as possible but are not guaranteed. The Customer shall have no right to damages or to cancel the order for failure for any cause to meet any delivery time stated.
- 4.2 The date of delivery shall in every case be dependent upon prompt receipts of all necessary information, final instructions and approvals from the Customer. Additions by the Customer in quantities required may result in delay in delivery.

RISK AND TITLE

- 5.1 Risk shall pass to the Customer so that the customer is responsible for all loss damage or deterioration to the Goods:-
- 5.1a If the company delivers the Goods by its own transport or in accordance with a specific contractual obligation arranges transport for the Goods at the time when the Goods or a relevant part thereof arrive at the place of delivery, or in all other circumstances at the time when the Goods or a relevant part thereof leave the premises of the Company.
- 5.2 Title to the goods shall only pass to the customer upon the happening of one of the following events: The Customer has paid to the Company all sums due and payable by it to the Company under this Contract and all other contracts between the Company and the Customer concluded prior hereto or when the Company serves on the Customer notice in writing specifying that title in the Goods or such part thereof has passed.
- 5.3 The Company may recover Goods in respect of which title has not passed to the Customer at any time and the Customer hereby licences Company, its officers, employees and agents to enter upon any premises of the Customer for the purpose either of satisfying itself that condition 5.4 below is being complied with by the Customer or of recovering any Goods in respect of which title has not passed to the Customer.
- 5.4 Until title to the Goods has passed to the Customer hereunder it shall possess the Goods as a bailee of the Company on the terms of this contract. If the Company so required the Customer shall store the Goods separately from other goods and shall ensure that they are clearly identifiable as belonging to the Company.

CANCELLATION AND RETURNS

- 6.1 Cancellation will only be agreed to by the Company on condition that all costs and expenses incurred by the company up to the time of cancellation and all loss of profits and other loss or damage resulting to the Company by reason of such cancellation will be paid forthwith by the Customer to the Company.
- 6.2 Goods correctly supplied by the Company pursuant to a special order by the Customer cannot be returned to the Company for credit.
- 6.3 Subject to 6.2 above and to a handling charge of 15% the Company may at its discretion accept the return for credit of Goods correctly supplied.
- 6.4 Prior to the issue of any credit by the Company the Customer must quote the original delivery note number or invoice number.

LOSS, SHORTAGES AND DEFECTS APPARENT ON INSPECTION

- 7.1 The Customer shall have no claim for shortages or defects in the goods supplied apparent on visual inspection unless:-
- 7.1a The Customer inspects the Goods within five working days following their arrival at its premises or other agreed destination, and
- 7.1b A written complaint is made to the Company within three days of receipt of the Goods or such shorter the period as the carrier's conditions (if applicable) require specifying the loss, shortage or defect and the Company is given opportunity to inspect the Goods and investigate any complaint before any use or alteration to or interference with the Goods.

- 7.2 If a complaint is not made to the Company as herein provided then the Goods shall be deemed to be in all respects in accordance with the contract and the Customer shall be bound to pay for the same accordingly.
- 7.3 Defects in quality or dimension in any instalment delivery shall not be a ground for cancellation of the contract.
- 7.4 If a complaint is not made to the Company as herein provided the Goods shall be deemed to be in all respects in accordance with the contract and the Customer shall be bound to pay for the same accordingly.
- 7.5 Where the Goods are delivered by a carrier whether or not the Company arranged the transport for any claim for loss or damage in transit must be made by the Customer against the carrier in accordance with the carrier's conditions of trading.

DEFECTS NOT APPARENT ON INSPECTION

- 8.1 The Customer shall have no claim in respect of defects in the Goods supplied which are not apparent on visual inspection at the time of delivery unless:-
- 8.1a A written complaint is sent to the Company as soon as reasonably practicable after the defect is noticed and no use is made of the Goods thereafter before the Company is given an opportunity to inspect the Goods in accordance with this condition and the complaint is sent within 2 months of the date of delivery of the goods by the Company save that in the case of item not manufactured by the Company all claims must be made within the Guarantee period specified by the manufacturer of such item.
- 8.2 The Customer shall not be entitled to any claim in respect of any repairs or alterations undertaken by the Customer without prior specific written consent of the Company nor in respect of any defect arising by reason of fair wear and tear or damage due to misuse.
- 8.3 The Company shall not be liable for loss or damage suffered by reason of use of the Goods after the Customer becomes aware of any defect or after circumstances which should reasonably have indicated to the Customer the existence of any defect.
- 8.4 The Company shall be entitled within 7 days of receiving such a written complaint to inspect the Goods and the Customer shall take all steps necessary to enable the Company to do so.

GUARANTEE CONDITION

- 9.1 Save as otherwise provided by the other conditions of these Conditions Sections 12 to 15 of the Sale of Goods Act 1979 are to be implied into this contract.
- 9.2 In the event of the condition of the Goods being such as might or would (subject to these conditions) entitle the Customer to claim damages or to repudiate the contract the Customer shall not then do so but shall first ask the company to repair or supply satisfactory substitute Goods and the Customer shall thereupon be entitled at its option free of cost and within a reasonable time to repair or take back the defective Goods and to supply satisfactory substitute goods. If the Company does so repair the Goods or supply satisfactory substitute Goods the Customer shall be bound to accept such repaired or substituted Goods and the Company shall be under no liability in respect of any loss or damage whatsoever arising from the initial delivery of the defective Goods or from the delay before the repair or delivery of the substitute Goods.
- 9.3 In the case of Goods not manufactured by the Company the Company gives no assurance or guarantee whatsoever that the sale or use of the Goods will not infringe patent, copyright or other industrial property rights of any other person, firm or company.

LIABILITY

- 10.1 Save where the Company is shown to have failed to exercise reasonable care in the performance of the contract and such failure results in death or personal injury the Company shall not be liable in respect of claims arising by reason of death or personal injury. Further under no circumstances whatsoever shall the Company be liable for consequential loss of profits, damage to property, wasted expenditure or cost of mitigation.
- 10.2 The Customer shall, save where the Company shall have failed to exercise reasonable care in performance of the contract, fully indemnify the Company from and against all loss, damage, demands, expenses, claims, actions and proceedings which are incurred by the Company or threatened, demanded, brought or made against the Company by any person, firm or company or governmental or other authority in respect thereof together with all costs and expenses incurred in relation thereto.
- 10.3 Without prejudice to condition 10.1 the Company's liability whether in respect of one claim or the aggregate of various claims other than claims for death or personal injury due to the negligence on the part of the Company shall not exceed £1,000,000 and the customer agrees to insure adequately to cover such claims in excess of such amount.

INSOLVENCY

11. If the Customer shall become bankrupt or under the provisions of Section 123 of the Insolvency Act 1986 is deemed to be unable to pay its debts or compounds with creditors or in the event of a resolution being passed or proceedings commenced for the administration or liquidation of the Customer (other than for a voluntary winding up for the purposes of reconstruction or amalgamation) or if a Receiver or Manager is appointed of all or any part of its assets or undertaking the Company shall be entitled to cancel the contract in whole or in part by notice in writing without prejudice to any right or remedy accruing to the Company.

FORCE MAJEURE

12. Neither part shall be under any liability for any delay, loss or damage caused wholly or in part by act of God, governmental restriction, condition or control or by reason of any act done or not done pursuant to the trade the trade despite whether such dispute involves its employees or not or by reason of any other act, matter or thing beyond its reasonable control, including failure by the other party to carry out provision of these conditions.

CONFIDENTIAL INFORMATION AND INDUSTRIAL PROPERTY RIGHTS

- 13.1 All drawings, documents, confidential records, computer software and other information supplied by the Company are supplied on the express understanding that copyright is reserved to the Company and that the Customer will not without written consent of the Company either give away, destroy, loan, exhibit, or sell any such drawings, documents, records, software or other information or extracts there from or copies thereof or use them in any way except in connection with Goods in respect of which they are issued.
- 13.2 All claims for alleged infringement in respects of patents, trade marks, registered design or copyright received by the Customer must be notified immediately to the Company so that the Company can be kept fully informed of the conduct of such claims.

LEGAL

14. The contract shall be governed and interpreted exclusively according to the law of England and shall be subject to the jurisdiction of the English Courts only.