

Conditions of sale



1 Interpretation

1.1 In these Conditions:

'Buyer' means the person who accepts a quotation of the Seller for the sale of the Goods or whose order for the Goods is accepted by the Seller.
'Goods' means the goods which the Seller is to supply in accordance with these Conditions and expressly excludes any service supplied to the Buyer by the Seller.

'Seller' means Light Projects Limited and any associated company thereof.

'Conditions' means the conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Buyer and the Seller.

'Contract' means the contract for the purchase and sale of the Goods.

'Writing' includes facsimile transmission and comparable means of communication.

2 Basis of the sale

- 2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.
- 2.2 No variation to these Conditions shall be binding unless agreed in Writing between the Buyer and the Seller or their authorised representatives.
- 2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing.

3 Orders and specifications

- 3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller or the Seller's authorised representative.
- 3.2 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).
- 3.3 All drawings, descriptive matter, specifications and advertising issued by the Seller company and any descriptions or illustrations contained in the Seller company catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They will not form part of this Contract.
- 3.4 The Buyer must ensure that the terms of its order and any applicable specification are complete and accurate.
- 3.5 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or EU requirements and which do not materially affect their quality or performance.
- 3.6 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

4 Price of the goods

- 4.1 The price of the Goods shall be the price listed in the Seller's price list current at the date of acceptance of the order or, if no price is listed, shall be the price quoted by the Seller for those Goods.
- 4.2 The Seller may also issue a sales confirmation document to the Buyer which will state the price of the Goods together with any discount and shall be final and binding on the Buyer and the Seller as to the issue of price of the Goods save in the case of any manifest error.
- 4.3 The Buyer must ensure that the terms of its order and any applicable specifications are complete and accurate.
- 4.4 Except as otherwise stated under the terms of any quotation or otherwise agreed in Writing between the Buyer and the Seller all prices quoted to the Buyer are net ex-works, exclusive of any applicable value added tax, and all costs or charges in relation to loading, unloading, carriage and insurance which the Buyer shall be additionally liable to pay to the Seller.

5 Terms of payment

- 5.1 The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) within 30 days of the date of invoice notwithstanding that title to the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract.
- 5.2 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 5.2.1 cancel the Contract or suspend any further deliveries to the Buyer; and
- 5.2.2 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 3% per month until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 5.3 All payments due to the Seller under the Contract shall become due upon termination thereof despite any other provision.
- 5.4 All payments due to the Seller under the Contract shall be paid to the Seller in pounds sterling unless otherwise expressly agreed in Writing by the Seller.

6 Delivery

- 6.1 Unless otherwise agreed in Writing delivery of the Goods shall be made by the Seller delivering the Goods to the Buyer's main distribution depot as notified by the Buyer to the Seller.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any reasonable delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in Writing.
- 6.3 The Buyer acknowledges that it is obliged to the Seller to perform certain tasks (by the date, if any, stipulated by the Seller) in order to enable the Seller to effect delivery of the Goods on the anticipated delivery date including (but not limited to):

- 6.3.1 obtaining credit and/or any other necessary payment documentation;
- 6.3.2 the obtaining of any necessary licence or permission (including import and export licences) for delivery; and
- 6.3.3 the provision of shipping space.
- 6.4 If the Seller fails to deliver the Goods for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

7 Risk and property

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:
- 7.1.1 in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or
- 7.1.2 in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
- 7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions,

TITLE TO THE GOODS SHALL NOT PASS TO THE BUYER UNTIL THE SELLER HAS RECEIVED IN CASH OR CLEARED FUNDS PAYMENT IN FULL OF THE PRICE OF THE GOODS AND ALL OTHER GOODS AGREED TO BE SOLD BY THE SELLER TO THE BUYER FOR WHICH PAYMENT IS THEN DUE.

- 7.3 Until such time as title to the Goods passes to the Buyer, the Buyer shall hold the Goods on a fiduciary basis as the Seller's bailee, and shall store the Goods separately from those of the Buyer and third parties and properly, protected and insured and identified as the Seller's property. Until that time the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, provided that the Buyer accounts to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and keeps all such proceeds separate from any moneys or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
- 7.4 Until such time as title to the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 7.5 The Buyer hereby acknowledges that no intellectual property rights in or in connection with the Goods passes under this Contract to the Buyer from the Seller.
- 7.6 The Buyer shall not, without the Seller's express prior written consent, utilise sell or transfer possession of the Goods for the purpose of designing or manufacturing similar or identical goods.

8 Quality

- 8.1 Where the Seller is not the manufacturer of the Goods, the Seller will endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Seller.
- 8.2 The Seller warrants that, subject to the other provisions of these Conditions:
- 8.2.1 the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1994 at delivery; and
- 8.2.2 the Goods will conform to any agreed specification therefor at the date of delivery
- 8.3 THE ABOVE WARRANTY IS GIVEN BY THE SELLER SUBJECT TO THE FOLLOWING CONDITIONS:
- 8.3.1 the Seller 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 the Seller's instructions relating to storage, handling or otherwise (whether oral or in Writing), faulty installation, misuse or alteration or repair of the Goods without the Seller's approval or failure to comply with the Control of Substances Hazardous to Health Regulations 1999 requirements;
- 8.3.2 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;
- 8.3.3 the above warranty does not extend to parts, materials or equipment not manufactured by the Seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller;
- 8.3.4 the above warranty does not extend beyond the shelf life of the Goods as notified to the Buyer in Writing.
- 8.4 The Seller shall not be liable for a breach of warranty under condition unless:
- 8.4.1 the Buyer gives written notice of the defects to the Seller and, if the defect is as a result of damage in transit to the carrier, within 7 days of the time when the Buyer discovers or ought to have discovered the defect; and
- 8.4.2 the Seller is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Buyer's cost for the examination to take place there.
- 8.5 Subject to conditions 8.3 and 8.4, if any of the Goods do not conform with the warranty in condition 8.1, the Seller shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Seller so requests, the Buyer shall (at the Buyer's expense) return the Goods or the part of such Goods which is defective to the Seller.
- 8.6 If the Seller complies with condition 8.5 it shall have no further liability for a breach of the warranty in condition 8.1 in respect of such Goods.
- 8.7 The Seller shall not be liable to the Buyer or be deemed to be in breach of the contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control.

9 Limitation of liability

- 9.1 Subject to condition 8, the following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Buyer in respect of:-
- 9.1.1 any breach of these Conditions; and
- 9.1.2 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 9.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 9.3 Nothing in these Conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence or fraudulent misrepresentation.

THE BUYER'S ATTENTION IS DRAWN IN PARTICULAR TO CONDITION 9.4:

- 9.4 Subject to conditions 9.2 and 9.3:
- 9.4.1 the Seller's total liability in contract, tort (including negligence or breach of statutory duty) misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this contract shall be limited to the price payable by the Buyer in respect of the Contract; and
- 9.4.2 the Seller shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever and howsoever caused which arise out of or in connection with the Contract.

10 Insolvency of buyer

- 10.1 This clause applies if:
- 10.1.1 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes 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 the property or assets of the Buyer; or
- 10.1.3 the Buyer ceases, or threatens to cease, to carry on business; or
- 10.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 10.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the 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.

11 Force Majeure

The Seller shall not be liable for any default under the Contract due to any act of god, war, strike, lockout, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of the Seller.

12 Assignment

- 12.1 The Buyer shall not be entitled to assign the Contractor any part of it without the express prior written consent of the Seller.
- 12.2 The Seller may assign the Contract or any part of it to any person, firm or company.

13 Entire Agreement

- 13.1 This Agreement, and the documents referred to in it, constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Agreement.
- 13.2 Each of the parties hereby acknowledge and agree that in entering into this Agreement it does not rely on and shall have no remedy in respect of any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. The only remedy available to it shall be for breach of contract under this Agreement. Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

14 General

- 14.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 14.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 14.3 If any provision of these Conditions is held by any competent authority to be illegal, invalid, unenforceable or unreasonable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

15 Governing Law and Arbitration

- 15.1 The Agreement shall be governed by and construed in accordance with the law of England.
- 15.2 Any dispute arising out of or in connection with this Agreement, including any questions regarding its existence, validity or termination, or the legal relationships established by this Agreement, shall be finally resolved by arbitration under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this clause. It is further agreed that:-
- 15.2.1 The tribunal shall consist of one arbitrator (who is to be a practising barrister);
- 15.2.2 In default of the parties' agreement as to the arbitrator, the appointing authority shall be the London Court of International Arbitration;
- 15.2.3 The place of the arbitration shall be London;
- 15.2.4 The language of the arbitration shall be English.