

## Terms and Conditions of Business

### 1. General

In these conditions:-

- 1.1 The Seller means Multi Disciplinary Engineering Limited.
- 1.2 The buyer is the person, company or firm or organisation with whom the Seller contracts
- 1.3 Any agreement made between the Seller and the Buyer whether for the sale of goods, hire of equipment, or for work and material or services hereinafter called the "contract" shall only be subject to these terms and conditions. Any representation or warranty made by or on behalf of the Seller prior to the contract whether verbally or in writing is expressly excluded and shall be of no effect. No servant or agent of the "Seller" has any authority to alter or vary or add to these terms and conditions except with the Seller's confirmation in writing and signed by one of its directors.
- 1.4 The Seller's quotation shall be deemed withdrawn unless the Buyer accepts within a period of 28 days from the date of quotation.
- 1.5 If the Seller enters into a contract without having submitted a written quotation or a standard acknowledgement of order form, but in circumstances when the Buyer has had prior notice of these terms and conditions, then all work done, goods, materials and service supplied shall be subject to these terms and conditions.
- 1.6 These terms and conditions override and supersede any others unless agreed by the Seller in writing and signed by a director.

### 2. Price

- 2.1 The Seller shall be entitled to adjust the contract price in the event of any variation in the cost of the Seller performing the contract caused by:
  - 2.1.1 Any increase or decrease in the cost of wages, manufacture, materials or overheads.
  - 2.1.2 Any other reason beyond the seller's control
- 2.2 The Sellers minimum invoice charge shall apply to all invoices.
- 2.3 The Sellers quoted price does not include VAT which will be charged at the appropriate rate.
- 2.4 Unless stated otherwise in the quotation, the price shall not include the cost of delivery, carriage or off-loading which should be arranged by the Buyer.

### 3. Catalogues

- 3.1 Information of any kind in any catalogue, price list or other advertising literature or publication, supplied by the Seller, is not guaranteed to be accurate, it is intended merely to represent a picture of the Sellers goods and services, and shall not form part of a contract between the Seller and Buyer. The Buyer is advised to check the specification of any contract accompanying the Sellers quotation before placing an order.

### 4. Designs

- 4.1 Where goods are manufacture or materials supplied to the Buyers own specification, pattern or design, the Buyer warrants and undertakes full responsibility for the fitness and suitability of such specifications, patents and designs, but also that they do not infringe on any trademark, copyright or other proprietary rights, and shall indemnify the Seller in full if such infringements occur.

### 5. Delivery, Delay and Variations

- 5.1 The Seller will use its best endeavours to complete the contract on the due date or dates but shall not be responsible for any direct or consequential loss resulting from late completion for any of the following reasons beyond the control of the Seller:-
  - 5.1.1 Strikes
  - 5.1.2 Industrials disputes
  - 5.1.3 Breakdowns
  - 5.1.4 Accidents
  - 5.1.5 Later deliveries of materials or goods
- 5.1.6 Any circumstances beyond the Sellers control in such circumstances the contract shall be suspended until normal working can be resumed and the Buyer shall accept late delivery unless he has cancelled the contract under the provision in paragraph 6 herewith
- 5.2 Delivery dates were given are estimated in good faith but are approximate. Although suppliers will use all reasonable endeavours to adhere to estimated delivery dates, the Suppliers will not guarantee such date and it is a term of the contract that in respect of delivery, time is not the essence.
- 5.3 In the event of any variation, suspension of delay of work caused directly or indirectly by the Buyer, whether with or without the content of the Seller, the Seller shall be entitled to increase the price accordingly but without prejudice to the Suppliers other rights or remedies.
- 5.4 The Buyer shall collect the Equipment from the Seller and return it to the Seller at the end of the Hire Period. If the Seller agree to deliver or collect the Equipment to and/or from the Buyer they will charge a standard delivery cost from time to time.
- 5.5 Where the Seller provides the services the persons performing the services are the Buyers responsibility. The Buyer shall be solely responsible for any damage which occurs as a result of such persons following the Buyers instructions during the Hire Period, except to the extent that the persons performing the services are negligent.
- 5.6 The Buyer will allow and/or procure sufficient access to and from the relevant site and procure sufficient loading space, facilities, equipment and access to power supplies and utilities for the Sellers employees, sub-contractors and/or agents to allow them to carry out the services. The Buyer will ensure that the site where the services are to be performed is cleared and prepared before the services are due to commence.
- 5.7 The Buyer will provide suitable access route for delivery or collection of the equipment with unrestricted entry and approach and supply lay timbers or appropriate temporary foundations in a suitable position for loading and unloading and for the equipment to rest on.
- 5.8 The Buyer shall pay for any lifting or special apparatus required for the siting of the equipment.
- 5.9 If any services are delayed, postponed and/or cancelled due to the Buyers failure to comply with the regulations under the contract, the Buyer will be liable to pay additional standard charges from time to time for such delay, postponement and/or cancellation except where the delay is due to Force Majeure.

### 6. Determination Suspension and Cancellation

- 6.1 If the buyer fails to make payment when it becomes due or commits any other breach and fails to remedy within 7 days of receiving the Sellers written request to do so, or the Seller has bona-fide doubts about the Buyers solvency, the Seller shall be entitled

- 6.2 to suspend or cancel the contract without prejudice to his right for payment for unfinished work, and damages for such consequences of termination.
- 6.2 If the Seller is prevented from performing the contract for any reason outside the reasonable control of the Seller, then performance of the contract shall be suspended by the Seller until normal working can be resumed. If the suspension lasts for a period of more than 3 months, then either party may give the other written notice to terminate the contract forthwith. The Buyer shall pay for all goods, materials and work completed before termination. Payment shall be made to the Seller on the last day of the month following the month in which the contract was terminated. The Seller shall be under no liability to the Buyer for any damages, direct or consequential incurred by the Buyer as a result of being unable to complete the contract in these circumstances.

### 7. Payment

- 7.1 Unless agreed in writing, the Buyer shall make payment, net cash within 30 days of the end of the month. The Seller will be entitled to interest on any amount outstanding after due payment date at the rate of 5% above the base rate then in force. Payment shall be due and Seller shall be entitled to sue for the full price whether or not title has been passed for the goods or materials as described in paragraph 10 of these conditions.
- 7.2 If the contract is performed in instalments then each instalment shall be treated as a separate contract and treated as such within these conditions. Failure by the Buyer to make payment by the due date shall entitle the Seller to suspend performance of the contract without prejudice to any rights the Seller may have. Payment may not be delayed or refused by the Buyer for any alleged defect in goods, work or materials that the Seller agrees to correct under the terms and conditions of its warranty.

### 8. Damage in Transit

- 8.1 The Seller undertakes to repair or replace, at his discretion any goods or materials damaged in transit or make up any shortages as the result of faulty packaging. Time for delivery of any such goods or materials shall be extended for such that the Seller may reasonably require. Replacement goods or materials shall be delivered to the originally contracted place of delivery. The Buyer may not reject the goods that are subject of short delivery.
- 8.2 The Seller shall only be bound by the above if:  
The buyer has given the seller written notice of such damage or shortage within 3 working days of receipt of such goods. The Seller is afforded full access to the materials or goods.

### 9. Warranty

- 9.1 The Sellers liability in respect of any defect or failure of materials, work done, goods supplied or services rendered or loss injury or damage attributable thereto is limited to the refunding of the value of the materials, work done, goods or services rendered. As an option, the materials, work done, goods or services rendered may be replaced, re-worked or repaired. Any items in question must have been subject to god care maintenance or storage and any fault or defect must have appeared within 90 days of delivery or completion.
- 9.2 The Seller shall not be bound by the warranty set out above if the fault or defect by:-
- 9.2.1 Improper or careless use or failure of the buyer to observe or comply with any instructions supplied by the Seller.
- 9.2.2 Any use of goods otherwise than in accordance with the Sellers specification.
- 9.3 It is a condition of this warranty the Seller is informed by the Buyer immediately if a defect is found and that the Buyer permits the Seller or his agents to inspect the alleged defective item.
- 9.4 The Seller shall not be liable for carriage or removal of returned goods or material or the cost of refitting. If the defective item was not produced by the Seller, the liability shall be limited, to the benefit in so far as they may be transferred to the Buyer, of any rights the Seller may have against the supplier of such parts or components.
- 9.5 The Buyer shall give the Seller reasonable time to effect any repair, re-work or replacement.
- 9.6 The Sellers liability under this warranty shall cease if:-
  - 9.6.1 The Buyer has not complied with the payment terms in these conditions.
  - 9.6.2 The Seller or his agents are denied access to the defective items.
  - 9.6.3 The Buyer allows others to attempt any re-work, repair or replacement of defective parts.

### 10. Title, Insurance and On Site Equipment

- 10.1 Until payment has been received in full for all goods, materials, work or services rendered, undertaken in the contract, the legal title for goods, materials and work done under the contract shall be retained by the Seller. Notwithstanding that the risk of such shall pass to the Buyer on delivery or installation, the Buyer shall be responsible for the insurance thereof.
- 10.2 Where the Sellers equipment used on-site the Buyer shall be responsible for any loss or damage (unless solely caused by the Seller or his agents) and the insurance thereof.
- 10.3 The Seller may enter the Buyers premises at any time to verify the Buyers compliance with these requirements or to remove goods, materials or equipment; or to remove any locks or bolts or obstructions to give access thereto.

### 11. Tests

- 11.1 The Seller will comply with any reasonable request in writing for test to be carried out by the Seller, at the cost of the Buyer; the Buyer will accept such goods, materials, work done and services rendered on satisfactory completion of such tests.

### 12. Site Work

- 12.1 If the Seller is required to work on the Buyers or the premises of a third party, then the Buyer shall ensure that:-
  - 12.1.1 Adequate and safe storage area is provided free of charge
  - 12.1.2 The Seller or his agents have free access to the areas where the work is to be carried out.
  - 12.1.3 All services and facilities to carry out the work are provided free of charge buy the Buyer.
- 12.2 Any building work, provision of services is the responsibility of the Buyer. The Buyer shall indemnify the Seller in full for any direct or consequential costs, expenses, damages or losses the Seller incurs as the result of:-
  - 12.2.1 The Buyer fails to comply with any of the above paragraph 11 (a) either at all or in sufficient time for the Seller to perform the contract.
  - 12.2.2 Claims' arising from damage or injury to persons or property unless it is proved that it is solely caused through the negligence of the Seller or his agents.
- 12.4 The Buyer shall be responsible for obtaining planning and any other necessary consent for any structural building work involved with site work.
- 12.5 The Seller will not be responsible for any statement made by its servants or agents unless it is confirmed in writing and signed by a director.

### 13. Errors

- 13.1 The Seller reserves the right to correct any clerical or typographical errors made by its servants or agents.

### 14. Statutory Requirements

- 14.1 Unless otherwise specifically stated or provided for in the contract, it is the Buyers responsibility to ensure that any relevant regulatory statutory provisions are complied with, prior to the Buyer using any good supplied by the Seller.

### 15. Health and Safety at Work Act 1974

- 15.1 The Buyer is drawn to the provisions of statutory legislation of Health and Safety at work. The Seller will make available one copy of any documents which it may have which the Buyer reasonably requires regarding the design, construction and installation of its products to ensure that as far as reasonably practicable they are safe and without risk to health and properly used. The buyer should ensure that such documents are made available to any person who should have knowledge thereof.

### 16. Severance

- 16.1 If at any time one or more of the provisions of these conditions becomes invalid, illegal or unenforceable in any respect under any law or is held by a Court to be invalid, illegal or unenforceable the validity and enforceability of the remaining provisions of these conditions shall not in any way be effected or impaired in any way.

### 17. Waiver

- 17.1 At any time or indulgence granted by the Seller to the Buyer or its rights in respect of any breach by the Buyer of any Terms And Conditions herein contained shall not be deemed grant of time or indulgence in respect of any other matters or as a waiver by the Seller of its rights in respect to any other such breach.

### 18. Interpretation

- 18.1 In these conditions the neuter gender masculine and feminine and the visa versa and the singular number shall include the plural and visa versa. The Headings in these conditions are for guidance only and shall be of no material effect.

### 19. Jurisdiction

- 19.1 These conditions and every contract made pursuant hereto shall be governed by and constructed in all respects in accordance with the laws of England and Scotland and any dispute arising hereunder shall be tried by the Courts thereof.

### 20. Confidentiality

- 20.1 All drawings, technical documents, commercial and financial information made known in any way to the Buyer by the Seller shall remain confidential and shall not be disclosed to a third party by the Buyer under any circumstances except where prior agreement is given in writing by a director of the Seller in accordance of 1 (b) of these conditions.

### 21. Fire

- 21.1 The Seller will notify the Buyer prior to commencement of work at the Buyers premises or that of a third party, that will involve gas or electric welding, cutting equipment, blow lamps or any other circumstances where the risk of fire may exist.
- 21.2 On receipt of such notice the Buyer will issue the Seller or his agents a "Hot Work" permit specifying the hazards that exist and any limits that exist and precautions to be taken.
- 21.3 The Buyer will issue to the Seller on a loan basis free of charge any fire extinguishers, fire blankets or other fire fighting equipment in order to comply with the "Hot Work" permit.

### 22. Hire

- 22.1 If the equipment or goods are the subject of a hire contract, the Hirer shall make payment from the date of collection or receipt at his works or that of a third party, until he has obtained an "off hire" number from the owner. The Hirer must confirm, either in writing or by telephone, the termination of a hire contract even when a fixed hire period has been agreed at the start of the contract.
- 22.2 The Hirer shall be responsible for ensuring that all personnel using the equipment or god shall be adequately trained and fully conversant with current Health and Safety and lifting legislation.

### 23. Care of Equipment

- 23.1 The Buyer shall -
- 23.1.1 Not deface or remove any labels from and/or interfere with the equipment, their working mechanisms or any other parts of them;
- 23.1.2 Take reasonable care of the Equipment and keep them properly maintained and only use them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions provided to or supplied to you;
- 23.1.3 Notify the Seller immediately and in any event within 24 hours after any breakdown, loss and/or damage to the Equipment or of any accident resulting in death, personal injury or damage to property;
- 23.1.4 Take adequate and proper measures to protect the Equipment from theft, damage and/or other risks;
- 23.1.5 Notify the Seller of any change of your address and upon the Sellers request provide details of the location of the Equipment;
- 23.1.6 Permit the Seller at all reasonable times to inspect the Equipment including procuring access to any property where the equipment is situated;
- 23.1.7 Keep the Equipment at all times in your possession and control and not to remove the Equipment from the United Kingdom without our prior written consent;
- 23.1.8 Be responsible for the conduct and cost of any testing examinations and/or checks in relation to the Equipment required by any legislation, best practice and/or operating instructions, except to the extent that the Seller has agreed to provide them as part of our services;
- 23.1.9 Not do or omit to do anything which will or may be deemed to invalidate any policy of insurance related to the Equipment;
- 23.1.10 Not continue to use the Equipment where it has been damaged;

- 23.1.11 Where the Equipment requires fuel, oil and/or electricity ensure that the proper type and/or voltage is used and that where appropriate the Equipment is properly installed by a qualified and competent person.
- 23.2 The Buyer must return the Equipment in good working order and condition (fair wear and tear excepted) in a clean condition together with all insurance policies, licenses, registration and other documents relating to the Equipment.
- 23.3 It's the Buyers responsibility to check the calibration of the Equipment on each occasion before use. Final determination of the suitability of the Equipment for the Buyers specific use is the Buyers responsibility and the Buyer must assume all risk and liability in this regard.

### 24. Breakdown

- 24.1 Allowance will be made in relation to the charges for any non-use of the Equipment due to breakdown caused by the development of an inherent fault and/or fair wear and tear provided that you inform the Seller as soon as practicable of the breakdown.
- 24.2 The Buyer shall be responsible for all expenses, loss (including loss of charges) and/or damage suffered by the Seller arising from any breakdown of the Equipment due to the Buyers negligence, misdirection and/or misuse of the Equipment.
- 24.3 The Seller will at their own cost, carry out all routine maintenance and repairs to the Equipment during the Hire Period and all repairs which are required due to fair wear and tear and/or an inherent fault in the Equipment.
- 24.4 The Buyer will be responsible for the cost of all repairs necessary to the Equipment during the Hire Period which arises otherwise than under section 24.3 above.
- 24.5 The Buyer must not repair or attempt to repair the Equipment without prior written consent.

### 25. Basis of contract

- 25.1 The conditions do not affect any of the Buyers statutory rights where you are a person dealing as a consumer, not for business purposes. Any section which would otherwise exclude you restricts your rights as a consumer will, to that extent have no force or effect.
- 25.2 These conditions shall be incorporated in all contracts and shall be the sole conditions under which the hire of Equipment provision of the Services and Sale of the Products takes place. All other Terms and Conditions and other representations are excluded from the contracts between the Buyer and Seller, including any terms and conditions which the Buyer may purport to apply under any contract and these terms and conditions shall prevail.
- 25.3 The Sellers employees or agents are not authorised to make any representations concerning the Equipment and/or Products unless confirmed in writing and any advice or recommendation given by the Seller to the Buyer as to the storage, application or use of the Equipment and /or products which is not confirmed in writing is followed or acted upon entirely at your own risk.
- 25.4 The Seller reserves the right to provide Equipment and/or products similar or comparable to that ordered by the Buyer.
- 25.5 The contract shall become binding when the Seller has acknowledged the order to the Buyer either verbally or in writing as appropriate. These conditions shall be applicable to all repeat orders made by the Buyer unless the Seller states otherwise to the Buyer.
- 25.6 The Equipment is hired subject to it being available for hire at the time the Buyer request it. The Seller will not be liable for loss suffered by you as a result of the Equipment being unavailable for hire.
- 25.7 The Buyer shall obtain and comply with all permissions, consents and licences required for the Equipment under any statute, regulation or byelaw.

### 26. Loss or Damage to the Hired Goods.

- 26.1 If the Equipment is returned damaged, unclean and/or defective state (except where due to fair wear and tear and/or an inherent fault in the equipment) the Buyer shall be liable to pay the Seller for the cost of any repair and/or cleaning required returning the Equipment to a condition fit for re-hire.
- 26.2 The Buyer will pay to the Seller the replacement cost of any Equipment (on a new for old basis) which is lost, stolen or damaged beyond economic repair during the Hire Period less the amount paid to the Seller under any policy or insurance taken out under the contract.
- 26.3 The Buyer shall pay the charges for the Equipment up to and including the date that they notify the Seller that the Equipment has been lost, stolen and/or damaged beyond economic repair. From that date until the Seller has replaced such Equipment, the Buyer shall pay as a genuine pre-estimate of lost charges profit, a sum as liquidated damages being equal to two thirds of the charges that would have applied for such Equipment for that period. The Seller shall use reasonable commercial endeavours to purchase replacements for such Equipment as quickly as possible using the monies paid under section 26.2

### 27. Default

- 27.1 If the Buyer:
- 27.1.1 Fails to make any payment to the Seller when due or
- 27.1.2 Breach the terms of the contract and, where the breach is capable of remedy, have not remedied the breach within 14 days of receiving notice requiring the breach to be remedied
- 27.1.3 Persistently breach the terms of the contract
- 27.1.4 Provide incomplete, materially inaccurate or misleading facts and/or information in connection with the Contract
- 27.1.5 Pledge, charge or create any form of security over any Equipment
- 27.1.6 Cease or threaten to cease carry on business
- 27.1.7 Being an individual or partnership, have a bankruptcy petition presented against you or compound with or come to an arrangement with your creditors or suffer any similar action jurisdiction
- 27.1.8 Being a company, enter into voluntary or compulsory liquidation, have an administrator or administrative receiver appointed over all or any of your assets, any attachments order is made against you, any distress, execution or other legal process is levied on any of your property or you suffer any similar action in jurisdiction
- 27.1.9 Have circumstances in which the Seller has reason to believe that any of the events mentioned in sections 27.1.7 or 27.1.8 above is about to occur and the Seller notifies the Buyer of this belief
- 27.1.10 appear reasonably to the Seller due to your credit rating to be financially inadequate to meet your obligation under the contract.
- 27.1.11 appear reasonably to the Seller to be about to suffer any of the above events
- Then the Seller shall have the right, without prejudice to any other remedies to exercise any or all of the rights set out in section 27.2 below
- 27.2 If any of the events set out in section 27.1 above occurs in relation to the Buyer then:-
- 27.2.1 The Seller may enter without prior notice, any of the Buyers premises (or premises of third parties with their consent) where the Equipment and/or products may be and repossess any Equipment and/or products.
- 27.2.2 The Seller may withhold the performance of any services and cease any services in progress under this and/or any other contract between the Buyer (or any of the Buyers Associated Companies) to the Seller (or any of the Sellers Associated Companies)

- 27.2.3 The Seller may immediately cancel, terminate and/or suspend without liability to the Buyer the contract and/or any other contract between the Buyer (or any of the Buyers Associated Companies) and the Seller (or any of the Sellers Associated Companies)
- 27.2.4 Any credit period in relation to payment of the charges shall be accelerated and all sums, all monies owed by the Buyer (or any of the Buyers Associated Companies) to the Seller (or any of the Sellers Associated Companies) under this contractor any other contract between the Buyer (or any of the Buyers Associated Companies) and the Seller (or any of the Sellers Associated Companies) shall immediately become due and payable.
- 27.3 Any repossession of the Equipment and/or Products shall not affect our right to recover from the Buyer (or any of the Buyers Associated Companies) any monies due under the contract or any other contract between the Buyer (or any of the Buyers Associated Companies) and the Seller (or any of the Sellers Associated Companies) and/or any damages in respect of any breach which occurred prior to repossession of the Equipment and/or products
- 27.4 Upon termination of the contract the Buyer shall immediately
- 27.4.1 At their expense return the Equipment to the Seller or make the Equipment available for the Seller to collect and
- 27.4.2 Pay to the Seller (or any of the Sellers Associated Companies) in full and cleared funds, all outstanding charges and/or any other sums payable under the contract or any other contract between the Seller (or any of the Sellers Associated Companies) and the Buyer (or any of the Buyers Associated Companies)

## 28. Limitation of Liability

- 28.1 All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy are excluded to the fullest extent permitted by law.
- 28.2 If the Seller is found to be liable in respect of any loss or damage to the Buyers property the extent of the Sellers liability will be limited to the retail cost of replacement for the damaged property.
- 28.3 Any defective Equipment and/or products must be returned to the Seller at the Buyers expense for inspection before the Seller will have any liability for defective Equipment and/or products.
- 28.4 The Seller shall have no liability to the Buyer if any charges or monies due in respect of the Equipment, the services and/or the products have not been paid in full and cleared funds by the due date for payment.
- 28.5 The Seller shall have no liability resulting from or contributed to by the Buyers continued use of defective Equipment and/or products after a defect has become apparent or suspected or should reasonably have become apparent to the Buyer.
- 28.6 The Seller shall have no liability to the Buyer to the extent that the Buyer is covered by any policy of insurance arranged as a result of the contract and the Buyer shall ensure that their insurers waive any and all rights of subrogation they may have against the Seller.
- 28.7 The Seller shall have no liability to the Buyer for any:-
- 28.7.1 Losses whether arising from breach of contract, tort (including but not limited to negligence), or otherwise, and whether flowing naturally and directly from such breach, negligence or other cause, or not, for:
- loss of revenue
  - loss of profit
  - loss of anticipated saving
  - loss of goodwill; or
  - loss of reputation
- 28.7.2 Economic and/or similar losses:
- 28.7.3 Special damages, indirect losses and/or consequential losses: and/or
- 28.7.4 Business interruption, loss of business, contracts and/or opportunity
- 28.8 The Sellers total liability to the Buyer under and/or arising in relation to any contract shall not exceed 5 times the amount of the charges or the sum of £1000, whichever is the higher, under that contract. To the extent that any of the Sellers liability to the Buyer would be met by the Sellers insurance then the Sellers liability shall be extended to the extent that such liability is met by such insurance.
- 28.9 Each of the limitations and/or exclusions in this contract shall be deemed to be repeated and apply as a separate provision for each of:
- 28.9.1 Liability for breach of contract
- 28.9.2 Liability in tort (including negligence): and
- 28.9.3 Liability for breach of statutory and/or common law duty; except section 28.8 above which shall apply only once in respect of all types of liability under this section 28.9
- 28.10 Nothing in this contract shall exclude or limit the Sellers liability for death or personal injury due to the Sellers negligence nor exclude or limit any other type of liability which is not permitted to exclude or limit as a matter of law.