

1.0 DEFINITIONS

In these Conditions:

- "Buyer"** means the person, firm or company whose order for the "Goods" is accepted by the "Company";
- "Goods"** means the "Goods" (including and instalment of the Goods or part thereof and any replacement parts) which the "Company" is to supply in accordance with these "Conditions";
- "Company"** means Metool Products Limited
- "Conditions"** means the Standard Terms and Conditions of Sale set out in this document, and where applicable, includes any special Terms and Conditions agreed in "Writing" between the "Buyer" and the Company";
- "Writing"** includes facsimile transmission, electronic mail and comparable means of communication;
- "Contract"** means the Contract for the purchase and sale of the "Goods".

2.0 FORMATION OF CONTRACT

- 2.1 Unless otherwise agreed in writing, the Company's Terms and Conditions set out herein shall be deemed incorporated in any order placed by the Buyer and any acceptance of a Buyer's order by the Company shall be deemed subject to the acceptance by the Buyer of these conditions. In the event of any conflict arising between these conditions and any conditions which the Buyer might additionally seek to impose in relation to his order, the Company's conditions shall prevail
- 2.2 Unless otherwise agreed in writing, all quotations and estimates supplied by the Company are invitations to treat. The Buyer's order is an offer and shall become binding only upon acceptance by the Company.
- 2.3 Any advice, statement, representation, term, condition, guarantee or warranty not expressly set out in the Contract or confirmed in Writing is followed or acted upon entirely at the Buyer's own risk, and accordingly the Company shall not bear any liability.
- 2.4 These Conditions and any resultant Contract shall be governed by and construed in accordance with the Laws of England and the Company and the Buyer hereby irrevocably submit to the exclusive jurisdiction of the English Court.
- 2.5 The Buyer shall not be entitled to assign, sub-contract or transfer the benefit or burden of this Contract or any part thereof without the prior written permission of the Company.

3.0 QUOTATIONS AND ESTIMATES

- 3.1 Quotations and estimates shall only be valid for the period specified therein or, if no such period is specified, for a maximum period of 30 days from the date thereof.
- 3.2 The quotation or estimate may be withdrawn or cancelled by the Company at any time within the validity period by written or oral notice.

4.0 SPECIFICATIONS

- 4.1 The Buyer will be responsible for ensuring the accuracy of the terms of any order, including any applicable specifications, submitted to the Company and for providing any necessary information relating to the manufacture of the Goods, within sufficient time to enable the Company to perform the Contract in accordance with the Conditions. Where the Buyer's enquiry specification is incomplete then the Company will make informed assumptions, which will be detailed in the quotation, and it is the responsibility of the Buyer to ensure their appropriateness.
- 4.2 The Company reserves the right to make any changes to specification, which do not materially adversely affect the quality of the Goods to conform to any applicable regulations or to improve their performance or to meet delivery requirements.

5.0 PRICES

- The price payable by the Buyer shall be as follows:-
- 5.1 Where the words "fixed price" appear in the Contract, the price shall be the price appearing therein.
- 5.2 In any other case the price shall be deemed to be the Company's price prevailing at the date of despatch of the Goods to the Buyer.
- 5.3 The Company reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, material surcharges or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Company adequate information or instructions.
- 5.4 All prices will be ex works with carriage paid for as an extra unless agreed otherwise in Writing. Unless otherwise specified packing cases, packing materials, cable storage drums and transport stands will be charged extra and if they are returned (carriage paid) in good condition within one month of receipt by the Buyer then a full credit will be issued.
- 5.5 In all cases and unless otherwise agreed in Writing the price shall be deemed to be exclusive of Value Added Tax which shall be payable in addition by the Buyer at the rate prevailing at the tax point.

6.0 TERMS OF PAYMENT

- 6.1 Until credit facilities are granted by the Company, the Company reserves the right to delay manufacture and/or delivery of the Goods until payment has been received against a pro-forma invoice.
- 6.2 Where credit is granted, settlement of account is strictly net and payable within 30 days of the end of the month of despatch of the Goods.
- 6.3 Non-payment by the due date may, at the absolute discretion of the Company, result in further deliveries being withheld and/or interest at 2% over the bank base rate prevailing during the period such overdue balance remains unpaid being added to the said balance on a daily basis.
- 6.4 Failure by the Buyer to make payment in respect of any one or more instalments of Goods delivered hereunder shall entitle the Company to treat the whole Contract, at its discretion, as repudiated by the Buyer.
- 6.5 The Buyer shall pay all balances owing to the Company and shall not exercise any rights of set off or counterclaim against invoices submitted.

7.0 DELIVERY

- 7.1 Delivery of the Goods shall take place upon the Buyer collecting them at the Company's premises at any time after the Company has notified the Buyer that they are ready for collection or, if some other place for delivery has been agreed by the Company, delivery to that place.
- 7.2 Any times quoted for delivery of the Goods are from the date of receipt of a written Order and are approximate only and the Company shall not be liable for any delay in delivery of the Goods, however caused. Time for delivery of the Goods shall not be of the essence unless previously agreed in Writing by the Company.
- 7.3 The Company will endeavour to comply with reasonable requests by the Buyer for postponement of delivery, but shall be under no obligation to do so. Where delivery is postponed other than as a result of default by the Company or the Buyer fails to take delivery on the agreed delivery date or no specific delivery date has been agreed when the Goods are ready for despatch, the Buyer shall pay all costs including a reasonable charge for the resulting storage and insurance costs and payment for the Goods shall be made in accordance with these Conditions.

8.0 CLAIM FOR DAMAGE OR LOSS IN TRANSIT

- 8.1 No claim for damage in transit, shortage or loss of Goods will be accepted unless, in the case of damage in transit or shortage, notice in Writing is given to the Carrier concerned and to the Company within five (5) days of delivery and, in the case of loss in transit, notice in Writing is given to the Carrier concerned and to the Company within fourteen (14) days of the date of the invoice.
- 8.2 When Goods are accepted from the Carrier concerned without being checked, then delivery notes should be signed "UNEXAMINED".

9.0 WARRANTIES AND GUARANTEES

- 9.1 Goods supplied by the Company are warranted to accord with any specification expressly agreed by the Company in writing. All other terms, warranties or conditions as to quality, description, fitness for purpose or otherwise (whether express or implied, statutory or otherwise) are excluded to the fullest extent permitted by Law.
- 9.2 In substitution thereof the Company provides the following guarantee:-
- 9.2.1 The Company will unconditionally guarantee to replace or repair all equipment of its manufacture excluding consumables in the event of defective materials and workmanship being ascertained by the Customer during a period of 12 months from the date of delivery to the Customer or, in the case of shipment to a foreign country, from the date the equipment is delivered at the port of destination. Provided always that this Guarantee is subject to the following conditions:-
- 9.2.2 The Company gives no Guarantee and the Buyer shall not be entitled to any claim in respect of any modifications or repairs undertaken by the Buyer without the prior written consent of the Company and this Guarantee shall be rendered immediately null and void by such modifications.
- 9.2.3 The Company shall not be liable for loss or damage suffered by reason of the continued use of the Goods without the express written permission of the Company after the Buyer becomes aware of a defect or after circumstances arising which should reasonably have indicated the existence of a fault to the Buyer.
- 9.2.4 Failure of any part of the equipment supplied which is in any way attributable directly or indirectly to damage in transit, incorrect installation, failure to maintain Goods in accordance with the Company's instructions or unauthorised interference by unqualified personnel outside the control of the Company shall be excluded from the terms of this Guarantee.
- 9.2.5 The equipment is used only and exclusively under the condition of service for which it was supplied and intended for use as recommended and advised by the Company.
- 9.2.6 Parts accepted by the Company as defective and within the scope of this Guarantee must be returned at the Customer's expense and such parts will be repaired or replaced as quickly as possible. Alternatively, on receiving notice of the defect from the Customer the Company may elect at its sole discretion to repair or replace the equipment where sited. In either event all labour charges involved (and where necessary travelling, subsistence and hotel expenses) will be borne by the Customer.
- 9.2.7 The Company gives no Guarantee in respect of cable or hose not of its manufacture and in any such case will assign to the Buyer its rights (if any) against its Supplier and these rights will be taken in extinction and in substitution for any rights which the Buyer may have otherwise against the Company.

10.0 RISK AND TITLE IN GOODS

Title in the Goods shall only pass from the Company to the Buyer upon full payment being made by the Buyer for all Goods sold under the Contract. In the event of delivery of the Goods by instalments, title to the Goods comprised in each instalment shall pass to the Buyer only upon payment being made to the Company for the full value of that instalment. Whilst, in accordance with this condition, Goods delivered to the Buyer remain the property of the Company, the Buyer shall nevertheless accept all responsibility for the safe custody, protection and preservation thereof including insurance and immediately upon the Goods coming into the possession of the Buyer and pending payment of the full value shall be liable to indemnify the Company in respect of all loss or damage of whatsoever nature affecting the Goods.

11.0 SUSPENSION

Deliveries may be wholly or partially suspended and the time of such suspension added to the original Contract in the event of a stoppage, delay or interruption of work in the establishment of the Company during the delivery period as a result of strikes, lock-outs, trade disputes, breakdown or any reasonable cause whatsoever beyond the control of the Company.

12.0 CANCELLATION/RETURNS

Cancellation of orders for specials or goods made specially will not be accepted, unless agreed in Writing, and only on the basis that the Company is fully and effectively indemnified against all losses and expenses incurred by it in execution of such order. Cancellation of orders and return of goods to stock may be accepted on the basis of not less than a 20% handling charge at the Company's discretion. In all such cases, the Company's decision shall be final. No return will be accepted without written authority.

13.0 TOOLS

All special tools, dies, moulds, fixtures and other equipment manufactured, constructed or obtained to implement the order will remain the property of the Company unless otherwise stipulated in Writing by the Company.

14.0 PATENTS

Orders to Buyers' drawings or specifications are executed only on the understanding that the Buyer will indemnify the Company against all losses and demands of whatsoever nature incurred by or made against the Company in respect of infringement of patents.

15.0 PERFORMANCE

15.1 Any performance figures given by the Company are based upon experience and are such as the Company expects to obtain on test. The Company however accepts no liability if these figures are not obtained unless the Company specifically guarantees them in Writing, and only then subject to recognised tolerances and rejection limits applicable to such figures.

15.2 All equipment supplied by the Company complies with the requirements of current EEC directives.

16.0 TESTS

All the Company's manufactures are carefully inspected and where practicable submitted to our standard tests at our Works before despatch. If special tests or tests in the Buyer's presence are required, these must be made at our Works and will be charged extra. In the event of any delay on the Buyer's part in attending such tests, after seven days' notice has been given the test will proceed in the Buyer's absence and the Buyer shall be deemed to have consented thereto.

17.0 ERECTION ON SITE

17.1 Orders including the cost of fixing or erecting materials are based on the work being executed during ordinary working hours and overtime will be charged extra, and we must be kept indemnified by the Buyer against all loss or damage caused by the Buyer or any employee of the Buyer during or arising out of any work on which the Company's employees or subcontractors may be or have been engaged.

17.2 All work carried out by the Company will be in accordance with current HSE guidelines. Any special site conditions must be made known to the Company prior to acceptance of any order.

18.0 CONDITIONS ON SITE

Where the Company is doing work or installing equipment for the Buyer upon any premises, the Buyer warrants that the premises are in such a strong and/or fit condition that the work or installation can safely be carried out under normal procedure.