

Metal Spraying UK Limited

Conditions of Sale

GENERAL

- 1.1 All quotations are made and all orders are accepted subject to the following conditions. All other terms, conditions or warranties whatsoever are excluded from the contract or any variation thereof unless expressly by the Company in writing.
- 1.2 Quotations shall be available for acceptance to a maximum period of 30 days from the date thereof and may be withdrawn by the Company within such period at any time by written or oral notice.
- 1.3 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 in the documents enclosed with the Company's quotation or acknowledgement of 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.

DELIVERY

- 2.1 Time for delivery is given as accurately as possible but 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.
- 2.2 The date of delivery shall in every case be dependent upon prompt receipt of all necessary information final instructions or approvals from the Customer. Alterations by the Customer in design specifications or quantities required may result in delay in delivery.
- 2.3 Failure by the Customer to take delivery of or to make payment of in respect of any one or more instalments of Goods delivered hereunder shall entitle the Company to treat the whole contract as repudiated by the Customer.
- 2.4 The Company will endeavour to comply with reasonable requests by the Customer for postponement of delivery but shall be under no obligation to do so. Where delivery is postponed otherwise than due to default by the Company the Customer shall be liable to pay any reasonable storage costs incurred by the Company and prices payable shall be those applicable at the date of despatch which shall not be greater than the original price adjusted by increases in the cost of materials, labour and overheads from the contract date of the date of despatch.
- 2.5 Any packaging supplied by the Company unless otherwise expressly agreed is intended to provide adequate protection throughout normal conditions of transit of usual duration.

RISK AND TITLE

- 3.1 Risk shall pass to the Customer so that the Customer is responsible for all loss, damage or deterioration of the goods.
 - 3.1.1 If the Company delivers the goods by its own transport or in accordance with specific contractual arrangement arranged transport for the Goods all the time when the Goods or a relevant part thereof arrive at the place of delivery or
 - 3.1.2 In all other circumstances at the time when the Goods or a consignment or other part thereof leave the premises of the Company.
- 3.2 Title to the Goods or any relevant part thereof shall only pass to the Customer upon the happening of any one of the following events:
 - 3.2.1 The Customer has paid to the Company all sums due and payable by it to the Company under this contract and all other prior contracts between the Company and the Customer or
 - 3.2.2 When the Company serves on the Customer notice in writing specifying that title in the Goods or such part thereof has passed.
- 3.3 The Company may recover goods in respect of which title has not passed to the Customer at time and the Customer hereby licenses the Company, its officers, Employees and Agents to enter upon any premises of the Customer for the purpose either to satisfying itself that condition 3.4 below is being complied with by the Customer or of recovering any goods in respect of which properly has not passed to the Customer.
- 3.4 Until title to the Goods has passed to the Customer pursuant to the terms hereof it shall possess the Goods as a bailee of the Company on the terms of the contract. If the Company so requires the Customer shall store the Goods separately from other goods and so insure that they are clearly identifiable as belongs to the Company.

CANCELLATION

- 4 The Company will only agree to cancellation 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.

PRICE

- 5.1 All prices unless otherwise stated quoted net ex works exclusive of VAT. Prices are firm unless otherwise stated except in the event of postponement of delivery as detailed in clause 2.4 of these conditions.
- 5.2 In the event of any alteration being requested by the Customer and agreed by the Company in design or specification the Company shall be entitled to make an adjustment of the contract price corresponding to such alteration.
- 5.3 The cost of carriage and packaging if required by the Customer shall unless otherwise stated by charged extras and is not refundable.

TERMS OF PAYMENT

- 6.1 Unless otherwise agreed the Company in writing the terms of payment shall be net cash monthly account due and payable on the last day of the month following the month in which the goods were despatched or would have been despatched save for postponement otherwise than due to default on the part of the Company. The Company shall be entitled to submit its invoice with its delivery advice note or any time thereafter save that where delivery has been postponed at the request of or by the 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 as aforesaid.
- 6.2 When goods are delivered by instalments the Company may invoice each instalment separately and the Customer shall pay such invoices in accordance with these conditions.
- 6.3 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.
- 6.4 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 deliveries on any contract or contracts between the Company and the Customer without notice and to charge interest on any amount outstanding at the rate of 4% per annum above the Base Rate of The Bank of England in force at the time when payment was due.

DIMENSIONS AND QUANTITIES

- 7.1 The Company reserves the right to alter or change dimensions of the Goods supplied within reasonable limits having regard to the nature of the Goods. Dimensions specified by the Company are to be treated as approximately only unless the Customer specifically states in writing that exact measurements are required.
- 7.2 Where materials are ordered by reference to numerical quantities or specified weights the Company reserve the right to under or over deliver the order by ten percent in accordance with trade custom.

SHORTAGES AND DEFECTS APPARENT ON RECEIPT OF GOODS

- 8.1 The Customer shall have no claim for shortages or defects apparent on visual inspection unless
 - 8.1.1 The Customer inspects goods within three working days of arrival at the premises or other agreed destination and

- 8.1.2 A written complaint is made to the Company and to the carrier within seven days of receipt of the Goods or such shorter period as the carriers conditions (if applicable) require specifying the shortage or defect and
- 8.1.3 The Company is given the opportunity to inspect the Goods and investigate any complaint before use of or alteration to or interference with the goods.
- 8.2 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 the same accordingly.

DEFECTS

- 9.1 The Customer shall have no claim in respect of defects not apparent on the visual inspection at the time of delivery envisaged by these Conditions unless
 - 9.1.1 A written complaint is sent to the Company as soon as reasonably practicable after defect is discovered and no use is made of the Goods thereafter and no alterations made thereto or interference made therewith before the Company is given an opportunity to inspect the Goods in accordance with this condition and
 - 9.1.2 The complaint is sent within 12 months of the date of delivery of the Goods or in the case an item not manufactured by the Company within the guarantee period specified by manufacturer of such item.
- 9.2 The customer shall not be entitled to any claim in respect of any repairs or alterations undertaken by the Customer without the prior specific written consent of the Company or in respect of any defect arising by reason of fair wear and tear or damage due to misuse.
- 9.3 The Company shall not be liable for loss or damage suffered by reason of use of the Goods after the Customer becomes aware of a defect or after circumstances which should reasonable have indicated to the Customer the existence of defect.
- 9.4 The Company may within 15 days of receiving such a written complaint (or 28 days where the goods are situated outside the United Kingdom) inspect the Goods and the Customer if so required by the Company shall take all steps necessary to enable the Company to do so.

GUARANTEE CONDITION

- 10.1 Save as otherwise provided by the other conditions of these Conditions Section 12 to 15 of the Sale of Goods Act 1979 are to be implied into this Contract
- 10.2 In the event of the condition of the goods being unsatisfactory 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 Goods free of cost and within a reasonable time. 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 defective goods are repaired or the substitute Goods are delivered.
- 10.3 In the case of goods not manufactured by the Company but sold by the Company as factors.
 - 10.3.1 The Company gives no assurance or guarantee whatsoever that the sale or use of such Goods will not infringe patent copyright or other industrial property rights of any other person, firm or company.

LIABILITY

- 11 Where the Company is shown to have failed to exercise reasonable care in the manufacture and/or supply of the Goods 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 to circumstances whatsoever shall the Company be liable for consequential loss (including removal or ratification work in connection with installation of repaired or substituted goods) loss of profits or damage to property.

CONFIDENTIAL INFORMATION

- 12 All samples, drawing, 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, loan, exhibit or sell any such samples, drawings documents, records, software or other information or extracts there from or copies in any way except in connection with the goods in respect of which they are issued

CUSTOMER DRAWINGS

- 13.1 The Customer shall be solely responsible for ensuring that all drawings, information, advice and recommendation given to the Company either directly or indirectly by the Customer or the Customer's agents, servants, consultants or advisers are accurate, correct and suitable. Examination or consideration by the Company of such drawings, information, advice or recommendation shall in no way unit the customer's responsibility hereunder unless the Company specifically agrees in writing to accept responsibility.
- 13.2 The Customer shall indemnify the Company from and against all actions, claims, costs and proceedings which arise due to the manufacture of goods to the drawing or specifications of the Customer where such drawings or specifications are at fault or where it is alleged that they involve an infringement of a Patent copyright, Registered Design or Design Copyright or the exclusive right.

DATA AND TECHNICAL INFORMATION

- 14 The information contained in the advertising, sales and technical literature issued by the company may be relied apart to be accurate in the exact circumstances in which it is expressed otherwise any illustrations, performance details, examples of installations and methods of assembly and all other technical data in such literature are based on experience and upon trials under test conditions and are provided for general guidance only. No such information or data shall form part of the contract unless the Customer shall have complied with condition 1.3 hereof relating to statements and representations.

INSOLVENCY

- 15 If the Customer shall become bankrupt or under the provision 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 purpose 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 accrued or accruing to the Company.

FORCE MAJEURE

- 16 Neither party 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 a trade dispute 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 the provisions of these Conditions.

LEGAL

- 17 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.