

1. INCORPORATION OF TERMS

- 1.1. The terms and conditions set out below shall apply without variation to every contract entered into by **ANDANTEX LIMITED** (hereinafter called '**the Company**') for the sale or supply of goods or materials to any person, firm or Company (hereinafter called '**the Customer**') unless the variation thereto is expressly agreed to in writing by the company.
- 1.2. These terms and conditions shall apply notwithstanding any inconsistency between them and the terms and conditions of any former contract between the Customer and the Company.
- 1.3. The Company does not recognise and will not be bound by any terms and conditions produced or supplied by the Customer unless specifically acknowledged and agreed in writing as aforesaid and the execution of, compliance with or implementation of the Customer's order does not imply acceptance by the Company of such terms and conditions.
- 1.4. The contract for the goods or materials sold or supplied (hereinafter '**the Contract**') shall be deemed to comprise and be made by (i) the Customer's order and (ii) the Company's acceptance given in writing.
- 1.5. Neither the Company nor the Customer shall be bound by any variation, addition to, or amendment of these terms and conditions unless such is agreed in writing by the Company and Customer and signed on their behalf by a duly authorised person for both Company and Customer.
- 1.6. If any of these terms or conditions shall be held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such terms or condition or part thereof shall to that extent be deemed not to form any part of the Contract, but the validity and enforceability of the remainder of these terms and the remainder of the Contract shall not be affected.

2. QUOTATIONS

- 2.1. Any quotation of the Company is subject to confirmation at the time of acceptance of any order.
- 2.2. Any data and/or documents relating to a quotation in the nature of illustrations drawings and specifications of weights and dimensions, performance and consumption or otherwise shall be considered approximate in nature unless expressed to be accurate.
- 2.3. The title to any quotations, estimates, drawings and/or other documents as well as the copyright thereof shall be retained by the company and such quotations, estimates, drawings and/or other documents shall not be disclosed to Third Parties.

3. DESCRIPTION

- 3.1. Descriptive matter published by the Company relevant to goods offered for sale or supply has been given by way of identification only and the use of such description shall not constitute a sale by description, nor shall such matter form part of any contract of sale for the same.
- 3.2. All designs, drawings, descriptive matter, weights, dimensions, specifications, brochures, catalogues, price lists and advertisements appearing in such descriptive matter so published are approximate and by way of identification only and intended to give a general indication of the goods and/or services described therein and they shall not form part of any contract or give rise to any independent or collateral liability of any kind.
- 3.3. All designs, drawings, specifications, brochures, catalogues, price lists, advertising matter and all other descriptive matter published by the Company are the copyright of and shall remain the property of the Company and must not be copied, reproduced, or divulged either directly or indirectly to any other person without the prior permission of the Company.

4. PRICES

- 4.1. Unless fixed prices have been expressly agreed by the Company the price payable by the Customer for goods or materials sold or supplied shall be the ruling price 'ex works' at the date of despatch exclusive of costs of delivery crating and/or packaging.
- 4.2. Prices do not include delivery, crating and/or packaging unless otherwise stated and all prices are subject to the addition of VAT.
- 4.3. Without prejudice to the generality of the foregoing, any change in the applicable rate of VAT or any other Government tax or levy shall be to the Customer's account.
- 4.4. Delivery, packaging and crating shall be charged to the Customer and are non-refundable.

5. DELIVERY DATE

- 5.1. Any time or date named by the Company for delivery is given and intended as an estimate only and the Company shall not be liable for any delay in delivery.
- 5.2. The Customer specifically acknowledges and accepts that:
 - 5.2.1. Time shall not be of the essence of the Contract.
 - 5.2.2. The Company shall not be liable for any delay in delivery arising from labour disputes, particularly strikes and lock-outs, or from any unforeseen circumstances beyond the control of the Company including such circumstances arising and affecting supplies in the Company.
- 5.3. Further, failure on the part of the Customer to make timely supply to the Company of all materials and/or data as required by the Company for completion of any order placed shall nullify and render void any time or date otherwise expressly given for delivery or supply of goods ordered.

6. DELIVERY

- 6.1. The goods or materials ordered by the Customer (hereinafter **'the Goods'**), properly packed and secured in such a manner as to reach their destination in good condition under normal conditions of transport, shall be delivered by the Company at, or dispatched for delivery to, the place or places and in the manner specified in the order or as subsequently agreed.
- 6.2. The costs of such delivery shall be borne and paid for by the customer in addition to all sums due for the price for the goods or materials so offered and delivered and upon the terms for payment hereinafter stipulated.

7. STORAGE

- 7.1. If for any reason the Customer is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery the Company shall, if the Company's storage facilities permit, store the Goods safeguard them and take all reasonable steps to prevent their deterioration until their actual delivery and the Customer shall be liable to the seller for the reasonable cost (including insurance) of the Company so doing.

8. PASSING OF PROPERTY

- 8.1. Notwithstanding the provisions of Clause 9 as to the passing of risk, the Goods shall remain the sole and absolute property of the Company until the Customer has paid in full the agreed price thereof and all other sums due from the Customer to the Company whether under this Contract or otherwise (including any interest thereon). Notwithstanding such retention of title, the Company shall be entitled to maintain an action for the price of the goods as soon as payment falls due.
- 8.2. The Customer acknowledges that:
 - 8.2.1. The customer is in possession of the Goods solely as bailee and for the Company until such time as:
 - 8.2.1.1. The agreed price for the Goods and all other sums due from the Customer to the Company whether under this Contract or under any other Contract, have been paid in full; or
 - 8.2.1.2. The goods have been incorporated or resold in the ordinary course of the Customer's premises.
 - 8.2.2. Until such time the Customer will store the goods on the Customer's premises separately from other goods (including the Customer's own) and in a manner which makes them readily identifiable as belonging to the Company and shall not alter, modify or add to any such goods or any marking or identification on them and shall maintain them in good condition.
- 8.3. If payment for the Goods supplied under this or any Contract is overdue either in whole or in part or in part the Company may (without prejudice to any of its other rights) retake possession of and/or resell any goods the title to which it has retained and the Customer hereby authorises the Company to enter upon any of the premises of the Customer for the purpose of repossessing any of the goods or materials supplied under any Contract made between the parties and in respect whereof the property therein has not passed to the Customer.
- 8.4. Notwithstanding any other agreement as to the terms of payment, the total invoice price shall immediately become due and payable and the Company shall have the right forthwith to terminate this Contract without prejudice to any other of its rights upon the occurrence of any of the events more particularly detailed in Clause 13 hereof. Upon any such termination the Company shall have such rights of repossession and resale as are set out in Sub-Clause 8.3 above.
- 8.5. Subject to the provisions of this clause and notwithstanding that the property in the goods has not passed, the Customer may resell the goods in the ordinary course of its business.
 - 8.5.1. Where the customer resells the Goods before title has passed, the customer shall sell as agent for the Company pending payment of all sums due to the Company hereunder or under any other contract with the company and shall keep the proceeds of sale (less the customer's profit margin) in a separate account not using the same and holding the same on trust in a fiduciary capacity for the Company. Notwithstanding the provisions of this sub-clause in relation to a third party the customer shall sell only as a principal.
 - 8.5.2. The Customer shall not in any circumstances place the proceeds of sale of goods supplied by the Company in any overdrawn bank account as long as any sum payable to the Company in respect thereof remains out-standing.

9. RISK

- 9.1. Risk in respect of the Goods shall pass upon delivery. Where the Goods are delivered by the Company by its own transport delivery shall be deemed to take place at the moment the Goods are lifted from the delivery vehicle. Where the Goods are delivered by other means of transport delivery shall be deemed to have taken place when the Goods are loaded onto the road or rail vehicle or means of transport used for such delivery.

10. DAMAGE OR LOSS IN TRANSIT

- 10.1. The Company will repair or replace, free of charge, goods damaged or lost in transit provided:
 - 10.1.1. The Customer shall give to the Company written notification of such damage or loss within such time as will enable the Company to comply with carrier's conditions of carriage as affecting loss or damage in transit; or
 - 10.1.2. Where delivery is made by the Company's own transport, the Customer shall give to the Company written notification of such damage or loss within a reasonable time and in any event within such time as shall enable the Company to comply with any requirement or condition of the Company's insurance policy covering such damage or loss.
- 10.2. For the purposes of Sub-Clauses 10.1.1 and 10.1.2 unless the Customer shall have actual notice of such conditions or requirements the time for giving such written notification by the Customer shall not be later than forty-eight hours from delivery and time shall be of the essence.

11. FORCE MAJEURE AND FAILURE OF CUSTOMER TO MAKE SUPPLY

- 11.1. In the event of war, invasion, act of foreign enemy, hostilities (whether war has been declared or not), civil war, rebellion, revolution, military or usurped power, act of God, force majeure, epidemic or any other matter or occurrence beyond the control of the Company or the failure on the Part of the Customer to make due and timely supply of all materials and/or data and specifications as may be required and agreed as terms of the acceptance of any order by the Company, the Company shall be relieved of all liabilities incurred under the Contract wherever and to the extent to which the fulfilment of such obligations is prevented, frustrated or impeded as a consequence of any such event or by the Statute Rules regulations Orders or Requisitions issued by any Government Department Council or other duty constituted authority or from strikes, lock-outs or other withdrawal of labour force, breakdown of plant or any other causes (whether or not of a like nature) beyond the Company's control.
- 11.2. In the event of the failure on the part of the Customer to make due and timely supply to the Company of all materials and/or data and specifications as may be required and agreed as terms of the acceptance of any order by the Company, the Company shall be relieved of all liabilities incurred under the Contract wherever and to the extent to which the fulfilment of such obligations is prevented, frustrated or impeded as a consequence of any such failure.

12. PARTIAL COMPLETION

- 12.1. In the case of partial completion of an order accepted by the Company, the Company shall be entitled to a quantum meruit payment from the Customer in respect of all work done by it without prejudice to its rights should non-completion be occasioned by the Customer and in particular in the event of the Customer cancelling an order without good reason the Company reserves the right to invoice the Customer upon the aforementioned quantum meruit basis in respect of the following specific items:
 - 12.1.1. The cost calculated pro rata, of materials utilised and of works accomplished in fulfilling the order to the date of such cancellation.
 - 12.1.2. The increased expenditure accruing to the Company arising from the purchaser's cancellation.
 - 12.1.3. A further sum calculated at the rate of 10% of the difference between the total value of the order placed by the Customer and so cancelled and the amount calculated under the provisions of Sub-Clause 12.1.1 above.

13. DETERMINATION

- 13.1. If:
 - 13.1.1. The Customer shall make default in or commit any breach of the Customer's obligations to the Company; or
 - 13.1.2. If any distress or execution shall be levied upon the Customer or their property or assets; or
 - 13.1.3. If the Customer shall make, or offer to make the arrangements or compromise with creditors or commit any act of bankruptcy; or
 - 13.1.4. If any petition or Receiving Order in bankruptcy shall be presented or made against the Customer; or
 - 13.1.5. If the Customer shall be a limited Company and any resolution or petition to wind-up such company's business shall be passed or presented otherwise than for reconstruction or amalgamation; or
 - 13.1.6. If a receiver of such company's undertaken property or assets or any part thereof shall be appointed;the Company shall have the right forthwith to determine any order then subsisting and upon written notice of such determination being posted by it to the Customer's last known address any subsisting order shall be deemed to have been determined without prejudice to any claim or right the Company might otherwise make or exercise.

14. REPLACEMENT OF FAULTY GOODS

- 14.1. Subject as herein otherwise provided the Company guarantees all products of its manufacture against any defect which are and can be shown to the Company's satisfaction to have been caused by reason only of the use of defective materials or by reason of faulty workmanship and which appears and arises within a period of 12 months from the date of despatch provided that the Customer has notified the company in writing of the fault within that period.
- 14.2. Should such defect appear and be notified within such period the Company's liability will be limited solely to repairing or at its option replacing the defective product or part and such guarantee shall extend only as to the cost of any defective materials utilised in such repair to labour, dismantling and reassembly or product or part and such guarantee shall extend only as to the cost of any defective materials utilised in such repair to labour, dismantling and reassembly or the transportation of personnel of the Company to the premises of the Customer which shall be borne by the customer.
- 14.3. The Company shall not be liable for any such defect in any circumstances if:
 - 14.3.1. The Goods or part of the Goods supplied have been the subject of abuse or misuse and such abuse or misuse is to be deemed to include:
 - 14.3.1.1. The use of any such Goods supplied or parts thereof otherwise than the purpose for which they are intended or otherwise than in fashion specified by the Company.
 - 14.3.1.2. Any dismantling, modification or repair carried out in respect thereof otherwise than in accordance with the specifications of the Company.
 - 14.3.2. The Goods supplied have been subjected to:
 - 14.3.2.1. Unsuitable storage, treatment or handling prior to use.
 - 14.3.2.2. Abnormal use or to use under abnormal conditions or beyond their capacity as rated and recommended by the Company
 - 14.3.3. The defect has been caused or contributed to by:
 - 14.3.3.1. Exposure of the Goods to direct weather conditions whether before or after installation.
 - 14.3.3.2. Operation of the Goods in abnormal atmospheric conditions.
 - 14.3.3.3. Faulty installation, servicing or repair of the Goods by any person other than a duty authorised representative of the Company.

- 14.3.4. The Customer fails as soon as possible after the assumed defect has become apparent to notify that defect to the Company in writing quoting the company's reference number if any and the date of purchase of the Goods alleged to be defective.
- 14.4. Entirely at the customers risk any repair or examination of defective Goods or parts may be carried out at the Company's premises but in which event the Customer shall bear:
- 14.4.1. The expense of delivering said Goods to the Company; and
- 14.4.2. The risk as to adequate packaging of said Goods; and
- 14.4.3. The subsequent expenses of re-delivery to the Customer.
- 14.5. The decision of the Company is final as to whether or not a defect is due to faulty workmanship or material.
- 14.6. If in the opinion of the Company the Goods are satisfactory in operation or of defective only as a result of circumstances for which the Company is not liable hereunder or as a result of fair wear and tear the Customer shall if required by the Company pay a reasonable charge for the examination of the goods by the Company and any cost of returning the goods to the Customer. In such case the Company shall submit to the customer a quotation for repair of the goods before effecting any repair.
- 14.7. The Company shall not in any case be liable under this clause or at all in respect of any Goods not of the Company's manufacture although the Company will do all that is reasonable at the Customer's expense to secure the benefit (with corresponding liabilities) to the Customer of any right which the Company may have against the supplier of such Goods but not so as to impose upon the Company a greater liability than will be imposed by its own guarantee herein contained.
- 14.8. Except as expressly provided in Sub-Clauses 14.1 to 14.3 of this Clause and except where the absolute prohibitions against exclusion and restriction of liability contained in the Unfair Contract Terms Act 1977 apply, the Company shall under no circumstances be liable to the Customer in respect of any loss, damage or injury of any kind (including consequential loss or damage) whether suffered by the Customer or any other party and howsoever caused (including being caused by any defect in failure of or unsuitability for any purpose of the goods or by any negligence whether in relation to design or manufacture of the goods or at all) and all conditions warranties or other terms whether expressed or implied statutory or otherwise are hereby excluded.
- 14.9. The Company shall not be liable for any loss of any kind (including consequential loss or damage) arising from representations statements warranties recommendations or advice made or given before the making of this Contract.
- 14.10. The expression 'consequential loss' shall be deemed to include loss of profits, loss of business revenues, loss of use or loss of goodwill whether of the Customer or of any other party.
- 14.11. The liability of the company in respect of any claim shall in any event be limited to whichever be the greater of (i) such sum as the Company may be reasonable steps be able to obtain under such insurance as it may have which covers such claim or (ii) Fifty Thousand Pounds (£50,000).

15. ACCEPTANCE

- 15.1. The Customer shall inspect the Goods immediately upon the delivery thereof and shall within 15 days from such inspection give notice in writing to the Company of any matter or thing by reason whereof the Customer alleges the Goods are not in accordance with the Contract.
- 15.2. If the Customer shall fail to give such notice the Goods so supplied shall be deemed to be in all respect in accordance with the Contract and the Customer shall be bound to accept and apply for the same accordingly and in compliance with the terms and conditions herein contained as to payment for Goods supplied.

16. PAYMENTS

- 16.1. The Customer shall pay the Company for Goods subject to the Company's terms and Conditions or in default of such terms:
- 16.1.1. Where the Company has granted the Customer credit approval, net monthly due 30 days from the end of the month in which the invoice is dated; or
- 16.1.2. Where the Customer does not have credit approval, payment shall be on a pro-forma basis.
- 16.2. Time of payment shall be of the essence of the Contract
- 16.3. In the case of Goods sold by instalments, each instalment shall be paid separately and accordingly, the provisions of this clause shall apply to each instalment.
- 16.4. Any discount allowed by the Company will be shown on the invoice.
- 16.5. If for any reason whatsoever payment is not made by the due date then the Customer shall be liable to pay interest on the amount in accordance with the provisions of the Late Payment of Commercial Debts (Interest) Act 1998.
- 16.6. Failure by the Customer to make any payment hereunder by the due date shall entitle the Company at its option to cancel the Contract without prejudice to any other right the Company may have against the Customer.
- 16.7. In the event of default of payment by due date the Company reserves the right to disallow any discount and to suspend delivery or terminate the Contract in respect of any undelivered goods.
- 16.8. In the event of default of payment by due date all sums owed by the Customer to the Company in respect of this or any other contract between the Customer and the Company shall fall immediately due in full and Sub-Clauses 16.5 to 16.7 shall apply to all such sums owed under all such contracts.

17. JURISDICTION

- 17.1. The Contract between the Company and the Customer shall be deemed to have been made in England and shall be subject to and governed in all respects by English law.
- 17.2. The Customer hereby submits to the jurisdiction of the English Courts in respect of any dispute arising under or out of any contract between it and the Company.