

## SPACEWAY SOUTH LIMITED

### TERMS AND CONDITIONS OF SALE OR CONTRACT

1. All prices are net unless otherwise shown.
2. We reserve the right to increase our prices after notification to our customers to cover any subsequent increase in wages or the cost of raw materials or increased costs of any kind arising from causes beyond our reasonable control and any order accepted by us will be subject to increases before completion of the order being charged to the customer.
3. Material from stock is offered subject to being unsold upon receipt of order.
4. No order which has been accepted by us may be cancelled by the customer except with our prior written agreement and on the terms that the customer shall indemnify us on demand in full against all loss (including loss of profit), costs (including the costs of all labour and materials used), damages, charges and expenses incurred by us as a result of such cancellation.
5. We shall not be liable for non-shipment, non-delivery or delay affecting any goods supplied by us, which arises from circumstances beyond our reasonable control. If a shipment should be delayed beyond the time stipulated we will on request accept notice of cancellation, except that any goods which are manufactured or in course of manufacture must be accepted by our customer.
6. No claim will be entertained on any goods unless our customers can establish by complete identification that these were supplied by us. No claim will be accepted unless made within seven days after receipt of the goods. If bundled and a claim for any reason whatsoever is contemplated, the bundle(s) must remain together with their original packing to await inspection by our representative.
7. No claim for damage of goods will be considered unless a written report has been rendered to the carriers within three days of receipt of the damaged goods and a copy of this report sent to us. In addition the customer must only sign the delivery note with a suitable qualification and no claim can be considered by us unless this is done.
8. No claim for shortage of goods will be considered unless we are informed of this immediately upon delivery.
9. If, in the case of goods despatch by rail, our customer has not received them within 17 days from the date of despatch, the customer must notify us immediately and we will then lodge a claim on behalf of the customer. In the case of the goods despatched by road, we must be informed by our customer on the tenth day after the date of despatch that the goods have not been received and we will then lodge a claim on behalf of our customer.
10. Our customer shall not be entitled to any allowances or claim unless payment has been made in accordance with the sale terms.

Subject to the conditions set out below we warrant that the goods will correspond to their specification at the time of delivery and will be free from defects in material and workmanship for a period of three months from the date of their initial use or three months from delivery whichever shall first expire.

The above warranty is subject to the following conditions:

- I. We shall be under no liability in respect of any defect in goods arising from any drawing, design, specification or information provided by the customer;
- II. We shall be under no liability of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow instructions (whether oral or written), misuse or alteration of repair of goods without approval;
- III. We shall be under no liability under the above warranty or any warranty, guarantee or condition if the total price has not been paid by the due date;
- IV. We shall be under no liability for the condition of parts, materials or equipment not manufactured by us. In that respect, the customer might be entitled to benefit from any warranty or guarantee given by the manufacturer to us.

Subject as expressly provided in these Terms and Conditions, and except where goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

Except in respect of death or injury caused by our negligence, we shall not be liable to the customer by reason of any representative, or any implied warranty, condition, or other term, or any duty at common law, for any consequential loss or damage (whether for loss of profit or economic loss or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and where caused by the negligence of the Company it's employees or agents or otherwise) which arise out of or in connection with the supply of any goods or their use or resale by the customer, except as expressly provided in these Terms and Conditions.

11. We reserve the right to refuse to execute any order or contract if the arrangements for payment or the customer's credit are non satisfactory to us. In the case of non-payment of any account when due or in the case of death, incapacity, bankruptcy or insolvency of the customer, or when the customer is a limited company when the customer makes any voluntary arrangement with it's creditors or becomes subject to an Administration Order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction of terms and conditions previously agreed with us) or when an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the customer or generally when the customer ceases, or threatens to cease, to carry on business, or when apprehend that any of the above might occur in relation to the customer, then the purchase price of all goods and materials and/or work invoiced and/or delivered by us to the customer to date shall be immediately become due and payable from the customer to us and in addition we are to have the right to cancel every contract made with the customer or to suspend or continue delivery of goods and materials and/or the execution of work at our option without prejudice to our right to recover any loss sustained.
12. All quotations, offers and contracts are subject to the express conditions that we will not be in any way responsible for loss, damage or delays arising from strikes, lockouts, cessation of labour, transport delays, shortened hours of labour, accidents of any kind, perils of the sea or rivers, war or the like, government interference or control, or any other cause of contingency, whatsoever beyond our control whether of the same nature as the preceding causes or not.
13. Unless otherwise agreed by us in writing these Terms & Conditions shall apply to all orders placed with us. Any stipulations or conditions in customer's order form which would conflict with quality or negate any Terms & Conditions shall be inapplicable to any order placed with us unless expressly agreed to by us in writing when acknowledging the order in question.
14. Risk of damage or loss of goods shall pass to the customer whether, in case of goods to be delivered at our premises, when we notify the customer that they are available for collection or, in the case of the goods to be delivered elsewhere, at the time of delivery, in the latter case, if the customer wrongfully fails to take delivery of any goods, risk will pass when we tender delivery to the customer.  
Notwithstanding delivery and the passing of risk in any goods, or any other provision in these Terms & Conditions, the property shall not pass to the customer until we have the received payment in full in accordance with these Terms & Conditions. Until the property passes to the customer, the customer shall hold these goods as our fiduciary agent and bailee and keep the goods separate from the customer's property and that of the third parties and properly stored, protected and insured and identified as our property. The customer may, however, resell those goods in the ordinary course of business but shall account to us, if we so require, for the proceeds of sale or otherwise of those goods and shall keep those proceeds separate from any other monies or property. We reserve the right to require the customer to deliver up any goods for which complete payment has not been received. If the customer fails to do so, we shall be entitled to enter upon the customer's premises or those of any third party in order to repossess those goods.
15. VAT and delivery are not included in the prices quoted and will be charged at the rate prevailing at the time of despatch.
16. Any dispute arising under or in connection with these Terms & Conditions may be referred, at our absolute discretion, to arbitration by a single arbitrator appointed by agreement or (in default) nominated on our application by the President for the time being of the Chartered Institute of Arbitrators. The arbitrator's decision shall in such circumstances be final and binding on both parties.

### CONTRACTUAL CONDITIONS

It is a term of this quotation/order that the following conditions are incorporated in the contract, whether JCT or otherwise to which the quotation refers.

1. **TERMS OF PAYMENT**
  - a) Payment shall be made in staged at our request to cover the value of work carried out and materials on the site.
  - b) In all case full and final payment shall be made to us on practical completion of contract of works.
  - c) If, and to the extent that, the amount retained by the employer in accordance with the main contract, in cases where we are sub-contractors, includes any monies due to us, the main contractor's interest in such money is fiduciary as trustee for us.
  - d) If the customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to us, we shall be entitled to charge the customer interest (both before and after any judgement) on the amount unpaid at the rate of 5% p.a above the base rate of Clydesdales Bank PLC from time to time, until payment in full is received by us.
2. **PLANT AND ATTENDANCE**

This quotation/order does not include: -

  - a) Unloading materials delivered on advance of our arrival (these deliveries will be kept to a minimum). N.B. – Materials damaged in transit must be suitably endorsed on the delivery note and notification sent to us.
  - b) Scaffolding, which shall be supplied by the Employer/Main Contractor and if supplied by us will be charged for as authorised extra work.
3. **SITE**

The following provisions with regard to the site shall be incorporated in these conditions: -

  - a) Foundations shall be laid accurately in accordance with our drawings.
  - b) The working area shall be accessible to heavy road transport. It shall be free of obstructions and have a surface suitable for operating a crane over the entire area. The surface shall be had and reasonably level and rubble of filling shall be blinded and rolled to avoid damage to pneumatic tyres.
  - c) Safe custody and dry storage shall be provided for our materials in the immediate vicinity of the working area.
  - d) Where extra journeys to fix steelwork are required they will be charged for as an authorised extra.

If we are put to expense by non-compliance with (a), (b) or (c) above such expenses will be charged for as an authorised extra.