

**1 TERMS USED IN THESE CONDITIONS**

- 1.1 "King" Means any of the King Group of Companies, the company whose name is displayed overleaf, whose name is displayed in any attachments accompanying this communication and or the company from whom the Customer is buying the Goods, Works or Service under this contract.
- 1.2 "Good" means the goods which King will supply and "Works" and or "Service" means work which King will do and reference to any one includes a reference to any one or more of these terms.
- 1.3 "Customer" means the buyer of the Goods and/or the Works.
- 1.4 "Contract" means the agreement between King and the Customer for the sale and purchase of the Goods or the performance of the Works.
- 1.5 "Quotation" means a written statement produced by King setting out the Goods to be sold and/or the Works to be performed the price of those Goods and/or Works and any other information terms or conditions proposed by King.
- 1.6 "Specification" means a technical description of Goods or Works provided by any combination of plans drawings photographs written technical data or description (whether originating from King or the Customer) set out in referred to or otherwise incorporated in a Quotation.
- 1.7 "Order" means a request (made verbally or in writing) by a Customer to King to supply Goods or carry out acceptance in writing by King of an Order.
- 1.8 "Writing" includes e-mail and comparable transmissions of means of communication.

2 PURPOSE AND EFFECT OF THESE CONDITIONS

- 2.1 These Conditions shall apply to all contracts between King and the Customer to the exclusion of all other terms and conditions including any terms or conditions which the Customer may purport to apply under any purchase order confirmation of order or similar document.
- 2.2 All orders from a customer shall be deemed to be offers to enter into a Contract upon these Conditions.
- 2.3 No variation to these Conditions shall be binding unless they are agreed in Writing by executive officer(s) of King and the Customer.

3 PRELIMINARY MATTERS

- 3.1 The Customer acknowledges that it does not rely on any previous representation communications or negotiation and that his Order Kings Order Acknowledgement and these Conditions constitute the entire agreement between the parties.
- 3.2 King shall not be liable for any advice or recommendation given by its employees agents or representatives as to application or use which a duly authorised executive officer has not confirmed in writing or for the consequences of any use or application not disclosed to King before the Contract.
- 3.3 Save for the Specification any information supplied whether directly or indirectly by or on behalf of King or reported or relayed by a third party about any of King's Goods or Works is intended to be no more than illustrative or of publicity value and shall not form or constitute any description or warranty of the Goods or the Works and the Customer accepts that the only terms warranties or conditions as to Goods or Works are those specifically incorporated in the Contract.
- 3.4 Any typographical clerical or other error or omission in sales literature quotations price lists acceptances invoices or other documents or information issued by King may be corrected by King without any liability on King's part
- 3.5 Unless otherwise stated quotations are valid for 30 days from date of issue. King reserves the right, without liability, to withdraw or revise a quotation, its contents and terms and conditions.

4 BASIS OF THE CONTRACT

- 4.1 The Contract is made (and incorporates these Conditions) at the time when King by its Order Acknowledgement accepts an Order and or for Service when King commences work on Customer supplied article of any description.
- 4.2 King shall be under no obligation to accept any Order and shall have no liability if it refuses to accept an Order.
- 4.3 Any Order from a Customer must be accompanied by a payment of 15% of the price specified in the Quotation or such other amount as agreed ("the Preliminary Payment") which will not be repayable to the Customer in any circumstances once the Contract has been formed.
- 4.4 The mere payment of the Preliminary Payment into King's bank account shall not constitute acceptance of an order and King may still choose to refuse the Order and refund the Preliminary payment
- 4.5 King may elect to accept an Order not accompanied by the Preliminary Payment and to proceed with the Contract without prejudice to its right to full compensation in the event that the customer subsequently cancels the order.
- 4.6 Any price quoted for Service will be indicative only and not include any major overhauls or breakdown calls. Any additional work identified following commencement of Service shall be communicated verbally to the Customer and the Customer hereby agrees to pay commercial rates for any additional work that it verbally instructs King to undertake.
- 4.7 The price quoted is for nominal working hours Monday to Friday and does not cover for work at Customer site or at customer desired times/locations. The Customer agrees to pay additional charges for personnel time plus expenses should the Customer require Service to be carried out at premises other than those of King.
- 4.8 The Customer must provide a Safe working environment and suitable facilities should it require King personnel to undertake Service work other than at King premises.

5 SPECIFICATION

- 5.1 The customer is responsible to King for ensuring that the Specification accords with its requirements for the Goods and/or the Works and for giving to King any necessary information relating to the Goods or the Works within a sufficient time to enable King to perform the Contract in accordance with its terms.
- 5.2 King shall be entitled to charge the Customer for any additional cost incurred by King as a result of a Customer's failure within a reasonable time to supply any necessary information for the performance of the Contract. King shall have no liability to the Customer if delivery is therefore delayed.
- 5.3 If as a result of information supplied to King by the Customer King is obliged to vary the Specification in order to complete the Contract then the Customer shall pay King for any additional work or cost thereby incurred.
- 5.4 If Goods are to be manufactured or any process to be applied to Goods or Works are to be performed by King in accordance with a Specification submitted by the Customer then:-
- 5.4.1 the customer warrants that the use of the Specification for the manufacture or process of Goods or for Works will not infringe the rights of any third party; and
- 5.4.2 the customer will indemnify King against all loss damages costs and expenses awarded against or incurred by King in connection with or paid or agreed to be paid by King in settlement of any claim for infringement of any patent copyright design trademark or other industrial or intellectual property right of any other person which results from King's use of Customer's specification.
- 5.5 All and each part of the Specification provided by King (including copyright design right or other intellectual property in the right) shall as between King and the Customer be and remain the property of King.
- 5.6 King has the right to make any changes in the Specification which are required to conform with any applicable statutory or EC requirements or which do not materially affect quality or performance.

6 PRICE

- 6.1 Unless otherwise specifically stated in a Quotation the Price stated in the Quotation is exclusive of all applicable taxes duties cost of packaging and delivery. These will be added to the quoted price and the Customer is liable to pay the same.
- 6.2 King is entitled by notice to the Customer at any time before delivery to increase the quoted price for the Goods or the Works to reflect any increase in the cost to King which is due to a factor beyond King's control (such as foreign exchange fluctuation currency regulation alteration of duties significant increase in labour or material costs or other costs of manufacture) changes in delivery dates or specification requested by the Customer or any delay caused by any instruction of the Customer or any failure of the customer to give King adequate information or instruction.

7 TERMS OF PAYMENT

- 7.1 Unless otherwise agreed in writing by King payment for the Goods or Works (invoice for which may be raised any time before or after delivery of the Goods or completion of the Works) shall be due before delivery and King shall not be bound to deliver the Goods until the Customer has paid for them and time for payment shall be of the essence. The customer shall not be entitled in any circumstances to withhold or refuse payment of the amount or to any off-set against amounts owed by King.
- 7.2 King shall be entitled to recover the price notwithstanding that delivery may not have taken place and that the property in the Goods has not passed to the Customer.
- 7.3 If the Customer fails to make any payment on the due date then (without prejudice to any other right or remedy available to King) King will, without liability to the customer, be entitled to :-
- 7.3.1 Retain any deposits paid by the customer, cancel the Contract or suspend any further deliveries to the Customer and retain all proceeds from sale of any Goods manufactured or Services performed for the Customer.
- 7.3.2 Require the Customer all its entire cost and risk to return to King any Goods and Works already delivered to the Customer and to reimburse King's costs of restoring them to their original conditions.
- 7.3.3 Appropriate any payment by the Customer to such of the Goods or the Works as King may think fit (notwithstanding any purported appropriation by the Customer); and
- 7.3.4 Charge the Customer interest (both before and after any Judgement) on the outstanding amount at a rate of 8% per annum pursuant to the Late Payment of Commercial Debts Act 1998 until payment is made.
- 7.3.5 Remove from Customer supplied unit(s) any Work which King has carried out to them The Customer accepts liability for restoring any such units to its original state.

8 DELIVERY

- 8.1 Any date quoted for delivery of Goods or completion of Works is approximate only and King will not be liable for any delay in delivery of Goods or completion of Works however caused.
- 8.2 Goods may be delivered by King or Works completed by King in advance of any quoted delivery date upon giving reasonable notice to the Customer.

- 8.3 Goods and Works shall be delivered to the Customer at King's works and the risk shall pass to the Customer when delivery takes place.
- 8.4 King will where possible give to the Customer not less than five days advance notice of the date on which the Customer is required to take delivery of the Goods or possession of the Works and if the Customer fails to do so then (without prejudice to any other right or remedy available to King) King may:-
- 8.4.1 Store the goods or the Works until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage (at a rate of £3 per meter length per day for each product stored or sell the Goods or the Works at the best price obtainable and (after deducting all reasonable storage insurance and selling expenses) charge the Customer for any shortfall below the price due under the Contract.
- 8.4.2 The Customer give notice in Writing to King within five days of actual delivery to the Customer of the Goods or the Works of any alleged defect in them then the Goods or the Works will be deemed to have been accepted by the Customer as complying with the terms of the Contract.

9 PROPERTY AND TITLE

- 9.1 The risk in the goods shall pass from King to the Customer upon delivery. However, notwithstanding delivery and the passing of risk in the goods, title and property in the goods, including full legal and beneficial ownership, shall not pass to the Customer until King has received cleared funds payment in full for all goods and Service-delivered under this and all other contracts between King and the customer for which payment of the full price of the Goods and Service there under has not been paid. Payment of the full price of the Goods and Service shall include amount of any interest or other sums payable under the terms of this and all other contracts between King and the Customer under which goods and Service were delivered.
- 9.2 Until such time as the property in the Goods passes to the Customer he shall hold the Goods as King's fiduciary agent and bailee and keep the Goods separate from those of the Customer and the third parties and properly stored protected and insured and are identified as King's property.
- 9.3 Until such time as the property in the Goods passes to the Customer King shall be entitled at any time to require the Customer to deliver up the Goods to King and (if the Customer fails to do so forthwith) to enter upon any premises to the Customer or of any third party where the Goods are stored and to repossess the Goods and (by entering into the contract) the Customer authorises King to do so.
- 9.4 The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of King and (without prejudice to any other right of King) if the Customer does so then all sums whatever owing by the Customer to King shall forthwith become due and payable
- 9.5 Where the customer fails to pay any monies owing to King, the Customer grants King an absolute right to dispose any Customer supplied property and also grants a right of lien to King over any over any of Customer's property in the possessions of King.

10 WARRANTIES AND LIABILITIES

- 10.1 When King is requested to work on a unit supplied by the Customer the Customer warrants that he has unencumbered title in that unit or that if he does not have such title the Customer has obtained permission of the legal owner or incumbrancer for the Works to be carried out.
- 10.2 Subject to the following conditions King warrants that the Goods or the Works shall be free from defects in material and workmanship for the shorter of a period of twelve months from delivery or 2000 hours of operation. King's liability under this warranty is limited to repair or replacement of defective parts or faulty workmanship.
- 10.3 The above warranty is given by King subject to the following conditions:-
- 10.3.1 King shall be under no liability in respect of any defect in the Goods or the Works arising from any drawing design or specification supplied by the Customer.
- 10.3.2 King shall be under no liability where the Customer without prior written authorisation of King incurs expenditure in rectifying alleged defects in Goods or Works.
- 10.3.3 King shall be under no liability in any defect arising from fair wear and tear wilful damage negligence abnormal working conditions failure to follow King's instructions (whether oral or in writing) misuse or alteration or repair of the goods or Works without King's approval.
- 10.3.4 King's liability under its warranty (or any other warranty conditions or guarantee) will cease if (i) the total price for the Goods or the Works has not been paid by the due date for payment (ii) Goods supplied or Works performed can not be demonstrated to have been regularly serviced and maintained. (iii) the Goods cease to be owned by the Customer (iv) The Goods or Works have been at any time misused abused or a defect aggravated by continued use after the defect ought to have been reasonably discovered. (v) The Goods or Works have been modified without the express written authority of King or parts fitted which were not supplied by King. King's attendance to warranty calls where warranty has been invalidated shall be at its sole discretion and such attendance shall not constitute validation of the warranty.
- 10.3.5 The warranty does not extend to parts materials or equipment not manufactured by King in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the original manufacturer to King.
- 10.3.6 Where the Goods are supplied or the Works are performed for export from the United Kingdom then King shall be liable only for the supply of replacement parts or materials which may be defective and shall not be liable for any costs of labour or of fitting such replacement parts or material.
- 10.3.7 When King has delivered Goods or Works it shall have no liability to the Customer for any damage or loss arising directly or indirectly out of or as a consequence of any subsequent modification alteration or addition to the Goods or Works carried out by or for the Customer and the Customer shall be solely responsible for Ensuring the appropriateness adequacy and safety of any such modification alteration or addition.
- 10.4 Where a valid claim is made in respect of any of the Goods or Works which is based on any defect in the quality or condition of the Goods or Works then:-
- 10.4.1 King shall have the option:-
- (i) to require the Goods or the defective part or component to be returned to its works for repair by King: or
- (ii) to replace the Goods or the defective parts free of charge (in which case the Customer shall return the defective Goods or parts to King at the Customer's cost; or
- (iii) refund to the price of the Goods or Works or a proportionate price thereof.
- 10.4.2 but King shall have no further liability to the Customer and King will not be responsible for any expense which the customer may directly or indirectly incur in removing replacing transporting and refitting any parts which are requested by King under 10.4.1. In any event King's overall liability under warranty shall never exceed the total price of the Contract.
- 10.5 Except in respect of death or personal injury caused by King's negligence King shall not be liable to the Customer by reason of any representation (unless fraudulent) or any implied statutory customary warranty condition or other term or any duty at common law or under the express terms of the Contract for any indirect special or consequential loss or damage (whether for loss of profit or otherwise) or for costs expenses or other claims for compensation whatsoever (whether or not caused by the negligence of King its employees or agents) which arise out of or in connection with the supply of the Goods or the Works or their use by the Customer and the entire liability of King under or in connection with the Contract shall not exceed the price of the Goods or the Works.
- 10.6 King shall not be liable to the Customer for any delay in performing or any failure to perform any of King's obligations under the Contract if the delay or failure was due to any cause beyond King's reasonable control.

11 CUSTOMER'S INSOLVENCY

- 11.1 This clause will apply if:-
- 11.1.1 The Customer makes any voluntary arrangement with its creditors or (being an individual firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation otherwise than for the purposes of amalgamation or reconstruction; or
- 11.1.2 an incumbrancer takes possession of or a receiver is appointed of any of the property or assets of the Customer; or
- 11.1.3 the Customer ceases or threatens to cease to carry on business; or
- 11.1.4 King reasonably apprehends that any of these events is about to occur in relation to the Customer and notifies the Customer accordingly
- 11.2 If this clause applies then (without prejudice to any other right or remedy available) King shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer and if the Goods have been delivered but not paid for the price shall if it is not already due then become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12 EXPORT

- Where the Goods or the Works are supplied for export from the United Kingdom then (notwithstanding any other provision of these Conditions):-
- 12.1 The Customer shall be responsible for ensuring that the product complies with any legislation or regulation governing the manufacture or use of and for importation of the Goods or the Works into the country of destination and for the payment of any duties on them.
- 12.2 Unless otherwise agreed payment of all amounts due to King shall be made by irrevocable letter of credit opened by the Customer in favour of King and confirmed by a major UK bank acceptable to King. All costs of the documentary credit shall be borne by the Customer.

13 GENERAL

- 13.1 King is a member of a group of companies and accordingly King may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its Group provided any act or omission of any such other member shall deem to be the act or omission of King.
- 13.2 Any notice required or permitted to be given by either party to the other shall be in Writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified as that party's address for service.
- 13.3 No waiver by King of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 13.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the specific provision in question shall not be affected.
- 13.5 The contract shall be governed by the Laws of England and the Customer agrees to submit to the exclusive jurisdiction of the English Courts.