

# Terms and Conditions of Sale

## A. General

1. The term 'Company' shall be defined as ESL Engineers (Basildon) Limited Company No 723927.
2. The term 'Purchaser' shall be the person or Company named in the quotation, purchase order or contract.
3. The term 'goods and services' shall be all goods and services whether raw material, processed goods, services for design, planning or project management, jointly or severally.
4. The conditions for the contract shall be as herein listed and shall include any other conditions listed in the quotation or tender. These terms and conditions shall prevail over any terms and conditions in the Purchaser's order.
5. Any quotation issued by the Company, unless previously withdrawn, remains open for thirty days from the date hereof.
6. No order submitted by the Purchaser shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company.

## B. Variations

1. Neither the Purchaser nor the Company shall be bound by any variation, waiver or addition to these conditions except as agreed by both parties in writing.
2. Any variation required by the Purchaser involving additional expense to the Company shall be charged as an extra payable in a like manner to the contract.
3. In respect of all quotations for work involving design and manufacture of equipment the quotation covers work to the Purchaser's basic specification only. It does not extend to modification or development of the basic equipment which will be subject to additional charge.
4. The Company reserve the right to vary terms of sale at any time, the prevailing terms of sale are published on [www.eslengineers.co.uk](http://www.eslengineers.co.uk)
5. All Raw Material Procured to supply Goods and Services shall be subject to variation at point of order and through out the term of order based on long term supply. The company shall endeavour to remain costs.
6. The purchaser shall acknowledge that the Company is not liable for any costs whatsoever of the Free issue Material supplied or the Purchasers costs of works undertaken to the point of supply to the Company.
7. Free Issue Material shall be supplied with an allowance of Scrap for the Company to set up and test requirement.

## C. Designs and drawings

1. Where the goods are manufactured to designs submitted by the Purchaser or where the Purchaser has approved the Company's designs and drawings the Company shall be under no liability for their correct functioning of the goods.

## **D. Time**

1. Time for delivery shall be as stated in the quotation. It will be subject to the receipt by the Company of all relevant documents, including drawings specifications and free issue material where applicable. Any alteration or up issue will be subject to revaluation.
2. The Company shall make every endeavour to complete on the date stated, however, time for delivery shall not be the essence of the contract.
3. The Company shall not be held liable for any non-performance or delay in delivery caused by force majeure. Force majeure shall include but shall not be restricted to acts of God, industrial disputes, fire, flood, storm accident, explosion or any other circumstance beyond the reasonable control of the company.
4. The Company shall not be held liable for any delay in delivery howsoever caused even if caused or contributed to by the negligence of the Company, its servants or agents.
5. The Company shall not be held liable for any loss in profit or any other consequential loss or damages arising from any delay due to late delivery, non-performance or any breach of contract.

## **E. Price and payment**

1. The price stated in the quotation is exclusive of V.A.T. and is exclusive of carriage, packing and insurance unless specifically stated to the contrary.
2. The price stated is based on estimated costs. Where such price is subject to variations due to modifications in design, or to cost variation due to extended delivery of component parts and/or currency fluctuations these variations will be notified to the Purchaser and charged in due course.
3. Any variation required by the Purchaser involving additional expense to the company shall be charged for as an extra payable in a like manner to the contract.
4. Charges for insurance, carriage and freight included in the contract price are based on rates applicable at the date of quotation. Any variation in these rates at the date of delivery will be included in the final contract price.
5. The Company reserves the right to cancel any order or to suspend delivery if payment has not been made by the due date or if in the sole opinion of the Company it considers that the Purchaser's obligations may not be met. New customers may be required to provide credit references to the satisfaction of the Company or to send payment with order. In the event of late payment, the Company reserves the right to withhold further deliveries under this or any other contract.
6. Invoices shall be rendered on delivery and shall be paid on a strict net monthly account basis (except where specific payment terms are detailed overleaf).
7. In the event of late payment, the Company shall automatically be entitled to charge interest at the rate of 4% above Barclays Bank PLC base rate, which shall accrue on a daily basis.
8. Where the Purchaser has incurred any liability to the Company, whether under this agreement or otherwise, and such liability is liquidated or unliquidated, the Company shall be entitled to set off the amount of such liability against any sum that would otherwise be due to the Purchaser under any other agreement made between the Purchaser and the Company or the Purchaser and an Associate Company.

## **F. Delivery**

1. Delivery shall be deemed to have taken place ;-
  - a) where transport is arranged by the Company, when the goods have been conveyed to the place so instructed by the Purchaser, ready for unloading by the Purchaser or
  - b) where transport is arranged by the Purchaser, when the goods have been loaded for despatch to the Purchaser.
2. When the goods are transported at the Company's instructions, any claim for goods damaged in transit and/or discrepancies from the contract are to be notified to the Company within seven days of the receipt of such damaged goods.
3. The Company shall not be liable for any damage caused to goods whilst in the possession of the Purchaser.
4. All damage in transit including Corrosion or Tarnishing must be reported by the Purchaser within 48 Hrs of Receipt.

## **G. Ownership and risk**

1. Title shall pass to the Purchaser when payment has been made in full to the Company for such item and all other goods whether or not of the same type, supplied by the Company to the Purchaser, and any default interest per E (7) above. In the event of the Purchaser not having completely discharged its total indebtedness to the Company, the Purchaser shall permit servants or agents of the Company to enter onto the Purchaser's premises and to repossess all goods which may have been supplied by the Company. Until fully paid for the Purchaser holds the goods in a fiduciary capacity as bailee for the Company any monies received by the sale of those goods must be held for the Company.
2. Risk shall pass to the Purchaser as soon as one of the following events has occurred ;-
  - a) the Purchaser takes delivery of the goods.
  - b) the Purchaser pays the price in full.
  - c) the Company having notified the Purchaser or its nominee that the goods are ready for despatch from the seller's works and the Purchaser has not taken delivery within thirty days of the date specified in such notice.
3. In the event of insolvency of the Purchaser, which shall include but not be limited to, the appointment of a receiver, administrator or liquidator, the Company shall have the right to terminate the contract and to repossess any goods supplied up to the value of the total indebtedness of the Purchaser to the Company by assessment of the open market value of such goods.

## **H. Sub-contract**

1. The Company reserves the right to sub-contract the content described in the quotation either as a whole or in parts, as is customary in the trade.

## **I. Guarantee**

1. The Company undertakes to make good any part of the equipment supplied (excluding expendable items) which under proper use shall fail owing to defective materials, workmanship or design (design shall exclude any design made, furnished or supplied by the Purchaser). This guarantee shall be limited to those faults or failures notified in writing to the Company within six months of the date of despatch.
2. Repair or replacement of any defective part made without the express consent of the Company shall be at the Purchaser's expense and shall terminate the Company's liability under the guarantee clause.
3. Under no circumstances shall this guarantee extend to indirect or consequential losses.

## **J. Law**

1. The law governing this contract, its application, performance and interpretation shall be English Law, venue England.

## **K. Arbitration**

1. If at any time any question, dispute or difference should arise between the Purchaser and the Company, the subject having been notified in writing by one party to the other party, the difference shall be referred to arbitration. The appointment of the arbitrators shall be one by the Purchaser and one by the Company.

## **L. Concessions**

1. Any concessions or latitude offered by the Company shall not prejudice any subsequent exercise of its legal rights whether or not such concessions or latitude shall have been relied upon or otherwise acted upon by the Purchaser and whether or not the Purchaser shall have received prior notice terminating such arrangements or reducing or cancelling any additional time for payment granted by the Company.