

P.A. TURNEY LIMITED

Terms and Conditions of Trading

1. GENERAL

- 1.1 In these conditions:-
1.1.1 "the Company" shall mean P.A. Turney Limited
1.1.2 "the Customer" is the person firm or company by whom the order is given and with whom the contract is made
1.1.3 "Goods" means all equipment articles and chattels included in the Customer's order and for the purposes hereof includes services
1.1.4 "Order" means the order (whether written or oral) placed by the Customer with the Company for the supply of Goods by the Company
1.2 Unless otherwise agreed in writing by the Company these conditions shall govern the contract between the Company and the Customer shall supersede all previous correspondence conditions and agreements whatsoever and shall override any terms or conditions stipulated or referred to by the Customer at any stage even if such terms and conditions are stated to take precedence over any other conditions
1.3 Unless incorporated in the Company's quotation or the Order acknowledgement the Company shall not be bound by any variation waiver of or addition to these conditions except as agreed by the Company in writing
1.4 The headings used in these conditions are for convenience only and shall not be taken into account in the legal construction thereof

2. QUOTATIONS/ORDERS

- 2.1 All quotations and Orders shall be invitations to treat and no binding contract shall be or deemed to have been made by the Order in respect of a quotation by the Company or otherwise until it has been accepted verbally or in writing by the Company
2.2 A quotation by the Company is valid only for the period specified in that quotation or when no period has been specified for the period of three weeks from the date of issue of the quotation or until withdrawn by the Company (whichever is the sooner)
2.3 A quotation by the Company includes the Goods specified therein

3. PRICES

- 3.1 The price or prices quoted by the Company in a quotation may be varied at any time by the Company before a binding contract has been entered into with the Customer or at any time thereafter if the prices for the Goods paid or payable by the Company are varied before delivery to the Customer
3.2 Unless otherwise stated in the Company's quotation or agreed in writing between the Customer and the Company prices are exclusive of delivery packing and insurance charges which shall be charged to the Customer at current rates in addition to such prices
3.3 Prices and other charges of the Company are exclusive of value added tax or any other tax payable on the supply of goods which value added tax or other tax shall be charged and be payable at the rate or rates in force at the date of the relevant tax point
3.4 The Customer authorises the Company to carry out and charge for any incidental work or services and to supply such Goods in addition to those described in the quotation order or acknowledgement where reasonably necessary or prudent to carry out fully and effectively the terms of the contract between the Customer and the Company
3.5 An Order placed with the Company cannot be cancelled or withdrawn once it has been accepted in writing by the Company
3.6 Any Goods returned to the Company without its consent in writing will not be accepted by the Company and will remain at all times at the Customer's risk

4. DELIVERY AND DELAY

- 4.1 The Company will use all reasonable endeavours to meet a delivery date but time shall not be deemed to be of the essence and the Company shall not be liable for failure to perform or for delay in performing the contract by any cause outside its control
4.2 The Company will inform the Customer as soon as is reasonably possible after the coming into the knowledge of the Company of the occurrence of any happening or event thought likely to cause any failure of or delay in the performance of the contract. The Customer shall not be entitled to terminate the contract by reason of any delay in its performance as aforesaid until such Customer has given to the Company reasonable prior notice in writing to make time of the essence
4.3 If the Company shall be prevented directly or indirectly by any cause outside its control from delivering any part of parts of the Goods specified in the contract the Company may deliver in which event the Customer shall take by way of part performance of the contract by the Company such part or parts of the Goods as the Company shall at the time fixed for delivery be able to deliver and the Customer shall pay for the Goods so delivered that proportion of the price fixed in the contract as is applicable to the Goods so delivered Provided that the Customer shall not be obliged to accept and pay for such part delivery if the nature of the transaction between the Customer and the Company is such as to render that part delivery totally valueless to the Customer
4.4 The Company shall if it is responsible for the delivery of the Goods to the Customer deliver the Goods to the place provided for delivery in the contract And where no definite place of delivery has been specified or no time for collection has been agreed by the time the Goods are ready for delivery or collection the Company may give the Customer written notice of availability of the Goods and if the Customer fails to specify in writing a place for the delivery of the Goods or fails to collect the same within seven days of the date of the Company's notice the risk in such Goods shall immediately pass to the Customer and the Company shall be entitled but not bound to store such Goods at any available place at the sole expense of the Customer

5. LOSS OR DAMAGE IN TRANSIT

If in the contract with the Customer the Company is responsible for the delivery of the Goods by the Company to the Customer or from the Customer to the Company the Company will repair or at its option replace free of charge any Goods lost or damaged in transit through the negligent act or default of the Company Provided that (1) in the case of delivery to the Customer the Company is given written notice of such loss or damage within three days of delivery or of the day upon which the Goods would have been reasonably likely to have been delivered had they or part thereof not been lost (2) any damaged Goods or part thereof are (if requested by the Company in writing) returned carriage paid by the Customer to such place as the Company may reasonably determine and (3) nothing in this condition shall impose liability on the Company for the repair or replacement of Goods lost or damaged in transit if the Customer is responsible for insuring the same during transit

6. FREIGHT CHARGES

If included in the quotation freight and insurance charges may be varied by the Company without any requirement to notify or obtain the consent of the Customer in accordance with the rates for such freight and insurance charges ruling at the time of dispatch and any such varied charges will be payable by the Customer

7. DESCRIPTION AND SPECIFICATION OF GOODS

- 7.1 Unless it is a condition of the contract that Goods shall be of a particular description or specification the Company may deliver to the Customer in the performance of the contract Goods of a similar description or specification provided that such substituted Goods do not materially or substantially affect performance or cost
7.2 All specifications drawings technical descriptions and other material or information supplied to the Customer by the Company or relating in any way to the Goods are confidential and copyright And without the Company's prior written consent no such material or information shall be disclosed to any third party or copied

8. PAYMENT TERMS

- 8.1 All sums due as shown in the Company's invoice must be paid as follows:-
8.1.1 in the case of all Goods other than those referred to in Condition 8.1.2 hereof on or before delivery, and
8.1.2 in the case of Goods comprising spares or repairs on or before the last day of the calendar month immediately following the month of the date of the invoice
8.1.3 the Company reserves the right to charge interest at a rate of 1.5% per calendar month on accounts not settled within the periods specified in condition 8.1 hereof such interest to be payable from the date of the relevant invoice to the date on which payment is actually made (as well after as before any judgment)

9. ACCEPTANCE

- 9.1 Goods are deemed to have been accepted by the Customer on delivery as fully complying with the contract unless a claim for damage shortage or non-delivery has been made in writing to the Company immediately after such delivery
9.2 No Goods may be returned to the Company without the prior written agreement of the Company
9.3 The Customer shall be legally obliged to accept on delivery and to pay for all Goods complying with his order

10. TITLE

The legal and equitable title to and ownership of the Goods supplied hereunder is reserved to the Company and will not pass to the Customer until:-
10.1 The Goods the subject of the contract have been paid for in full, and
10.2 All other goods the subject of any other contract between the Company and the Customer which at the time of payment of the full price of the Goods sold under this contract have been delivered to the Customer but not paid for in full have been paid for in full
And the following provisions shall apply:-
10.3 The Customer shall hold any such Goods not paid for in full in the capacity of a fiduciary owner in trust for the Company whether or not the Customer incorporates with or affixes or attaches the same to any other goods or property in the ownership or possession of the Customer
10.4 The Customer shall be responsible for storing such Goods in such a way that they can be identified as such
10.5 The Customer shall not process or use in any manufacturing operation sell agree to sell hire or make any other disposition of the Goods or any part thereof until they have been paid for in full nor (without prejudice to the generality of the foregoing) pledge charge or create any other form of security over or part with possession of the Goods or any part thereof until they have been paid for in full

11. WARRANTY

- 11.1 For Goods manufactured by the Company (excluding any components thereof not manufactured by the Company) the Company will make good either by repair or by the supply of replacement parts (at its option) defects which arise and which are attributable to faulty materials or workmanship during the period of six calendar months starting on and including the date of delivery provided that no liability is accepted by the Company for installation charges or other damages that may be incurred unless imposed on the Company under the Consumer Protection Act 1987 or otherwise by law
11.2 For Goods which are not manufactured by the Company the Company will pass on to the Customer where possible any warranty given by the manufacturer thereof subject to the Customer complying with the terms of any such warranty
11.3 The above warranties shall not apply to any Goods or part thereof rendered faulty by alteration treatment processing or interference with the Goods after delivery thereof to the Customer nor shall they apply unless the Company receives written notification of such fault or defect within fourteen days of its occurrence nor shall they apply if the Company's or manufacturer's trade mark or serial number has been removed defaced or altered or if the manufacturer's instructions regarding the Goods have not been fully adhered to

12. LIABILITY

- 12.1 Subject as hereinbefore provided and to the provisions of the Consumer Protection Act 1987 or any statutory amendment or re-enactment thereof for the time being in force the Company shall not be under any liability whatsoever to the Customer whether in contract tort or otherwise for any damage injury or financial or other loss directly or indirectly incurred by the Customer or any person or persons using the Goods or any part thereof (other than death or personal injury caused by the negligence (as defined in Section 1 of the Unfair Contract Terms Act 1977) of the Company or its employees And in so far as the same can be excluded all statutory warranties conditions and representations are hereby excluded
12.2 Any statutory or other liability not excluded by these conditions (other than for death or personal injury) shall not in any way exceed the value of the Goods supplied
12.3 The liability of the Company for death or personal injury shall not exceed the amount of the Company's insurance cover to meet such claim
12.4 The Customer shall indemnify the Company against any liability which the latter may incur whether by court proceedings or by a bona fide out-of-court settlement as a result of a claim against the Company under Part I of the Consumer Protection Act 1987 (as amended as aforesaid) in respect of an alleged defect in the Goods

13. LIEN

Without prejudice to any other rights hereunder the Company shall have a general lien on all equipment articles and chattels of the Customer and for all Goods the subject of the contract in its possession or under its control for all sums due at any time from the Customer and shall be entitled to sell or dispose of such equipment articles chattels and Goods as agent for and at the expense of the Customer and apply the proceeds in or towards the payment of such sums on 28 days notice in writing to the Customer And upon accounting to the Customer for any balance remaining after disposal the Company shall be discharged from any liability whatsoever in respect of such equipment articles chattels or Goods. In case where equipment articles chattels or Goods are liable to deteriorate the Company's right to sell or dispose of the same shall arise immediately upon any sum becoming due to the Company subject only to the Company taking reasonable steps to bring to the Customer's attention its intention of selling or disposing of the same before doing so

14. TERMINATION

If payment in full for all the Goods supplied to the Customer by the Company is not made by the Customer upon the due date for payment or an encumbrancer takes possession of the Goods or a receiver is appointed over the whole or any part of the assets of the Customer or a petition is presented or notice is given of a resolution to wind up the Customer (other than for the purpose of amalgamation or reconstruction) or an administration order is made or the Customer makes any arrangement or composition with creditors or commits any act of bankruptcy or the Customer is unable to pay its debts within the meaning of Section 518 of the Companies Act 1985 or any statutory modification or re-enactment thereof then:-

14.1 The Company shall be forthwith discharged from any obligation under the contract with the Customer then subsisting but shall (without prejudice to any other rights it may have hereunder or by law) become immediately entitled to recover possession of any Goods supplied to the Customer under that contract unless at that date all goods supplied to the Customer by the Company have been paid for in full.

14.2 Any right of the Customer to use sell or otherwise dispose of the Goods shall forthwith determine without the need for the Company to give notice of such determination unless at that date all goods supplied to the Customer by the Company have been paid in full

14.3 Unless all goods supplied to the Customer by the Company have been paid for in full the Customer shall forthwith place any Goods supplied to it by the Company at the disposal of the Company and hereby irrevocably licenses the Company by its servants or agents together with any requisite transport to enter upon all or any premises of the Customer and to take such steps as may reasonably be necessary to locate and remove therefrom all or any of the Goods

15. UNFAIR CONTRACT TERMS

These Terms and Conditions of Sale in the light of the Unfair Contract Terms Act 1977 are considered by the Company to be fair and reasonable but if the Customer considers any of them to be unreasonable in whole or in part it must inform the Company in writing before any contract is made otherwise the Customer will be deemed to have accepted that they are reasonable

16. FORBEARANCE

No forbearance or indulgence shown or granted to the Customer shall constitute a waiver of any condition herein or in any way affect or diminish restrict or prejudice the rights and powers of the Company hereunder or by law

17. NOTICES

Any notice to be given by one party to the other shall be in writing and sent by recorded delivery pre-paid letter telex or telegram to the last known address in the United Kingdom of the Customer in the case of the Customer and the registered office of the Company in the case of the Company And any such notice shall be deemed to have been received in the case of a letter 3 days after posting and in the case of a telegram or telex 24 hours after dispatch

18. LAW APPLICABLE

The performance construction and validity of these conditions and the contract between the Company and the Customer shall be construed and governed in all respects by and in accordance with English law

19. THE CONTRACT

The acceptance of any Order from a Customer by the Company shall be conditional upon the incorporation of these conditions in the contract with the Customer on the basis that such conditions in the case of conflict shall supersede and take priority over any conditions of the Customer