

Conditions of Sale – Supply Only

1. GENERAL

The following Conditions apply to all contracts for sale and shall prevail over any other provisions inconsistent therewith, wherever contained. No variations to the contract shall be binding upon us unless expressly accepted by us in writing and signed by a Director of Frenger Systems Limited. Contracts for installation of products shall be governed by "Conditions of Sale – Supply & Installation".

2. AVAILABILITY OF GOODS

- (i) Offers for delivery from stock are made subject to the goods remaining unsold on receipt of order.
- (ii) If at your request we hold the goods in our store, the same will be at your risk and we reserve the right to make a nominal storage charge.
- (iii) If you cannot accept delivery of goods by the contracted due delivery date, goods shall be stored at at Frenger or an independent storage facility and charged to your account (Invoiced) accordingly and will become payable 28 days from the month end in which the invoice was raised.

3. PRICES

- (i) Prices quoted are those ruling at the date of our order confirmation or the date of despatch of the goods, as the case may be, and are subject to variation without notice.
- (ii) Fixed prices cannot be quoted except as far as we can obtain corresponding cover at our buying price from our suppliers. If, because of delay in placing your order for actual delivery, the suppliers price to us is increased, we reserve the right to revise our quotation based on any increased cost incurred by us.
- (iii) Where before delivery the goods become subject to customs duty, value added tax or any other tax surcharge under any act of Parliament or Regulation, or to any amount payable under the European Communities Act or enactments or regulations hereunder, in excess of the sum allowed for such liabilities in our quotation of price for the goods, such extra charge will be charged to and payable by you in addition to the quoted price.
- (iv) Our quotation is made at prices applicable to the quantities specified. In the event of the whole order as quoted not being placed with us, we reserve the right to revise our prices in respect of the goods actually supplied.
- (v) In the event of credit account sales, we reserve the right to make a minimum invoice charge.

4. SAMPLES

Samples and colour charts are only submitted as indicative of the class of goods quoted for, without any guarantee as to colour, exact dimensions or quality of the bulk. Deliveries of materials may show slight variations in substance, performance, colour or dimensions, and estimates are given on the understanding that any unavoidable degree of variation will be accepted.

5. DESCRIPTIONS AND ILLUSTRATIONS

- (i) Whilst all descriptions and illustrations of the goods in catalogues, brochures, leaflets and price lists provided by us have been carefully prepared, they are intended for general guidance only and we do not accept responsibility for any errors or omissions therein or for any loss or damage resulting from reliance on such descriptions and illustrations.
- (ii) The goods are not tested or sold as fit for any particular purpose and any term, warranty or condition, express, implied or statutory, to the contrary is excluded.
- (iii) Unless expressly stated, layout drawings submitted by us shall be regarded as general arrangement drawings only and shall not be binding as to detail. The copyright in any drawings submitted by us shall remain our property and not be reproduced or modified without our consent.

6. CANCELLATIONS AND RETURNS

- (i) Contracts and orders may be cancelled only with our written sanction if not dispatched, however any goods part manufactured or materials ordered cannot be cancelled and will be charged accordingly up to a maximum of 75% of contract value.
- (ii) All administration costs associated with cancelled contracts prior to dispatch will be charged up to a maximum of 25% of contract value. If drawings produced this charge may increase to a maximum of 40% of the contract value.
- (iii) We regret that deposits taken against special orders are not refundable in any circumstances.
- (iv) We regret that we cannot accept the return of goods obtained or made especially to your instructions (non standard items). We reserve the right to make a handling and restocking charge of 40% on standard products returned in unused, undamaged and resalable condition, however acceptance of a standard item return is at the management of Frenger Systems sole discretion. Arrangements for the return of goods must be made with our accounts department and please note our drivers cannot accept returned goods without written instructions from our accounts department.

7. DELIVERY

- (i) Although every endeavour will be made to adhere to delivery dates quoted, in no circumstances shall we be liable for any delay in delivery or loss arising there from, however caused. Time shall not be the essence of the contract.
- (ii) When goods are offered for delivery to site, our obligation is to deliver as near to the site as a safe hard road permits. You are responsible for unloading and stacking the goods.
- (iii) If delivery times are restricted by local traffic regulations, you are responsible for advising us of the details of the restriction and providing assistance for unloading at the agreed time. If the delivery has to be made outside our normal hours of business, we reserve the right to make an extra charge.
- (iv) For export projects refer to quotation in first instance and our Order Acknowledgement thereafter for delivery method, envisaged time frames, customs clearance and local duties etc...

8. DAMAGE AND LOSS IN TRANSIT

- (i) We accept no liability for damage to goods occurring in transit unless notified to us on the day of delivery and provided that the goods have been signed for as "damaged" on Frenger's delivery note and on the haulage company's delivery note. In the case of non-delivery, we accept no liability of any sort unless written notice of non-delivery is given to us within three days after the posting of the despatch advice note or invoice in respect of the goods.
- (ii) Our liability for damage to or non-delivery of goods duly notified to us in accordance with the foregoing shall in any event be limited to replacement of the goods within a reasonable time, whether the damage or non-delivery is due to our negligence or otherwise. Consequential losses shall not be transferable from the buyer to the seller.

9. DELIVERY STILLAGES

If reusable stillages and/or cases are listed on the order acknowledgment it is your responsibility for the safe keep and return of such items on the next available delivery lorry. Any loss or damage or shortfall in return of stillages or cases will be chargeable.

10. PASSING OF PROPERTY

- (a) All goods sold by us whether delivered or installed or not shall remain our sole property until all funds of whatever kind due to us for the sale or supply of such goods have been paid and cleared into our bank account in full.
- (b) Until property in goods sold or supplied passes to the buyer the buyer shall:
 - (i) be responsible for any damage suffered to the goods and shall take all steps necessary to keep the goods in good condition and repair and shall keep the same in safe custody;
 - (ii) shall not overload or overwork or in any way improperly use the same and shall not do any act or thing which leads or may lead to the goods being seized under distress or any legal process;
 - (iii) shall at all times keep the goods comprehensively insured against all risks to their full price and shall take steps to effect that an endorsement be made on the policy recording our interest in the goods and providing that all the money payable to the buyer under the policy shall be paid to us as agents for the buyer and the buyer hereby appoints us as agents for the buyer for the purpose of receiving the said money and grants to us the right to satisfy from such sums any claims outstanding in our favour against him. If for any reason such insurance monies are not paid to us but are paid to the buyer, the buyer shall hold such monies up to the amount due to us as trustee for us. Further at all times while goods are in the possession of the buyer but while the property therein remains in us the buyer shall notify immediately any defect arising in the condition of the goods and shall at all times allow us access to the goods for the purpose of inspection and or work to the goods and we shall be entitled to but not obliged to carry out such works as we deem necessary to the goods and only such work and shall be entitled to render to the buyer charges for such work unless such work is in respect of defects which are the subject of an express warranty under these conditions.

- (c) Where goods which have not been paid for are not clearly identifiable by way of serial number or otherwise to particular invoices the following rules shall apply to enable attribution to particular invoices:-

- (i) Goods sold or supplied by us and held by the buyer shall be attributed to the last unpaid invoice rendering charges in respect of that type of goods:
- (ii) If the number of goods of a particular type sold or supplied by us and held by the buyer exceeds the number of goods of that type covered by the last unpaid invoice, then the goods un-attributed to the last unpaid invoice shall be attributed to the penultimate unpaid invoice rendering the charges in respect of that type of goods.
- (iii) If the number of goods of a particular type sold or supplied by us and held by the buyer exceeds the number of goods of that type covered by the last and penultimate unpaid invoices then the remaining goods shall be attributed to the pre-penultimate relevant unpaid invoice and so on until so far as is possible all the goods sold or supplied by us held by the buyer have been attributed to unpaid invoices.
- (d) Where such goods which have not been paid for have been sold on by the buyer then so much of the proceeds of such onward sale as is equivalent to the sum due to us shall be held on trust by the buyer for us and we shall be entitled to trace the same into the buyer's bank account. Where goods sold or supplied by us have been sold on by the buyer but cannot be attributable by serial number or otherwise to particular invoices of ours then they shall be attributed to the last unpaid invoice in accordance with the rules set at sub-clause (i) above or (where the goods have already been attributed to invoices in accordance with sub-clause (i) above) to the latest unpaid invoice to which goods have already been attributed.
- (e) Where goods which have not been paid for have been incorporated into or with other goods so as to be no longer identifiable as the goods supplied or sold by us then so much of any proceeds of sale of the article(s) into or with which our goods have been incorporated as is equivalent to the sum due to us shall be held in trust by the buyer for us and we shall be entitled to trace the same into the buyer's bank account(s). Where goods the subject of this sub-clause cannot be attributed by serial number or otherwise to particular invoices of ours then they shall be attributed to the last unpaid invoice in accordance with the rules set out at sub-clause (i) above or (where goods have already been attributed to invoices in accordance with sub-clauses (i) and (d) above) to the latest unpaid invoice to which goods of the relevant type have not already been fully attributed.

11. REPRESENTATIONS BEFORE CONTRACT

In accepting delivery of goods supplied by us, you are deemed to acknowledge that no representation, whether oral or in writing, has been made by us or by any servant or agent of ours, which has induced you to enter into the contract for the purchase of the goods. No representation or warranty is made, given or to be implied except as expressly stated in these Conditions of Sale.

12. DEFECTIVE GOODS

- (i) All goods should be inspected for any reasonably obvious transit damage upon delivery. A further 7 days grace period following delivery may be allowed for any transit damage that is not reasonably obvious at the time of delivery; however any claim for damaged goods or defective goods must be reported in writing complete with a photograph before installation of the said goods. The purchaser should check that all goods are as ordered, suitable for the purpose required, and in good condition before installation of the same.
- (ii) Whilst every endeavour is made to supply goods as ordered and of sound workmanship and material, no guarantee or warranty is given or implied as to the correctness, soundness, workmanship or efficiency of any goods supplied for any particular purpose, but in the event of any goods supplied proving to be wrongly delivered or defective in material or workmanship, we undertake to repair or replace the goods free of charge if returned carriage paid to our works. We shall be under no liability whatsoever for repair or replacement of defective goods unless written notice of such defect is given to us within 6 months after delivery of the goods. Our Warranty to repair or replace defective goods does not include the cost of removing, re-fixing or any other consequential loss or damage.
- (iii) The above undertaking is given in lieu of all conditions or warranties, express or implied, statutory or otherwise, which are hereby expressly excluded, and no liability is accepted by us for damage, loss or injury of any kind, whether arising by reason of our negligence or otherwise. We shall not be liable for any goods being returned to us, which are lost or damaged in transit. It is the sender's responsibility to insure goods in transit to their full value.
- (iv) Where manufacturers of goods or materials have limited their liability in respect thereof or in respect of any liability direct or indirect in connection therewith, and such limitation has been advertised or announced in trade literature, or has otherwise been deemed to have come to your notice whether generally or specifically, the same limitations shall apply to our liability on the sale of those goods by us and such limited liability shall be in lieu of all other conditions or warranties, express implied or statutory, which are hereby expressly excluded.
- (v) Warranty will not apply where equipment is installed in any environment containing harmful or hazardous chemicals, and in particular if held or used in an environment containing halogenated hydrocarbons or other volatile solvents.

13. HEALTH AND SAFETY AT WORK

All goods are sold subject to the requirements that you shall give the following undertaking: We undertake to make available to those persons who will use these products at work all information concerning the products which we shall receive from the retailer or manufacturer and we further undertake to take measures to ensure that such information is utilized to ensure, so far as is reasonably practicable, that the products will be safe and without risk to health when properly used.

14. PAYMENT AND ACCOUNTS

- (i) Full payment of invoice must reach Frenger by 28th of the month following month of invoice unless otherwise specified in the Company's quotation. If payment is not made by the due date the Company at its option may:-
 - (f) Suspend all further deliveries or cancel the order so far as any goods remain to be delivered there under and resell such goods.
 - (g) Decline to accept warranty responsibility in respect of such goods.
 - (h) Cancel all discounts quoted or shown on the invoice.
 - (i) Charge the buyer interest at 2% per month on all monies not paid within the Company's terms of payment.
- (ii) The Frenger invoice (as supplemented by these Terms) shows all offers of discount, early payment credits and overdue account charges relating to the sale, consequently the company must be notified immediately of any error on an invoice.
- (iii) The opening and maintenance of a credit account and the acceptance of any order against that account is subject to satisfactory references being received and to your observance of the terms on which the credit is given. The right is reserved to refuse to accept orders against a credit account at our discretion at any time and without assigning any reason therefor.

15. ASSEMBLY INSTALLATION AND SERVICE INSTRUCTIONS

Full information for the assembly, installation and service of the equipment is supplied with all heaters on despatch from our works. The Company accepts no responsibility for loss or damage if these instructions are not adhered to. Additional copies are available from our offices free of charge.

16. DEFAULT IN PAYMENT AND BANKRUPTCY

In the event of non-payment in accordance with our credit terms, or if you become bankrupt or go into liquidation or make any composition with your creditors or if a Receiver or Manager is appointed, we reserve the right to withhold deliveries and cancel or suspend outstanding orders and to recover the goods delivered or collected, unless payment in full is made to us for the whole of the goods ordered.

17. LEGAL CONSTRUCTION

Every contract to which these General Conditions of Sale apply shall be construed and operate as an English contract and in accordance with English Law

Unless agreed by us in writing our standard Conditions of Sale as above will override customer conditions of purchase and any offer made by us is given strictly under these conditions.