

STANDARD CONDITIONS FOR WORK AND SERVICES

| | | |
|---|--|---|
| <p>1. General</p> <p>1.1 All orders for goods (the "Goods") to be supplied by Hardide Coatings Limited (hereinafter referred to as the "Company") are subject to these conditions of sale and the placing of an order by a buyer ("the Buyer") will constitute acceptance of these conditions.</p> <p>1.2 These conditions may not be modified or varied unless the Company agrees in writing and the Company will not be deemed to accept any other conditions nor waive any of these conditions by failing to object to provisions contained in any purchase order or other communication from the Buyer. No person has authority on behalf of the Company to vary any conditions except by a written variation signed by a director.</p> <p>2. Quotations</p> <p>2.1 Quotations from the Company are stated to be open for such time as may be specified in each such quotation and provided it is not withdrawn by the Company in such period it remains capable of acceptance. No binding contract will be created by the acceptance by the Buyer of the Company's quotation until notice of such acceptance has been given in a purchase order and the Company has indicated to the Buyer in writing its acceptance of such order.</p> <p>2.2 If the Buyer places an order with the Company without requesting a quotation from the Company or before such a quotation has been provided, all deliveries carried out in satisfaction of such order will be subject to these conditions.</p> <p>3. Orders</p> <p>3.1 Notwithstanding the receipt by us from you of an order or of an acceptance of our quotation, such order or acceptance shall not be binding upon us until confirmed by us by our forwarding to you our form of acknowledgement of order.</p> <p>3.2 A Buyer requiring Goods from a quality assured source or certificates of conformity must specify its requirements in writing at the time of placing the order.</p> <p>3.3 The Company reserves the right to refuse to accept any cancellation of an order unless notification in writing is given to the Company and accepted in writing by the Company. In the event of any cancellation the Buyer must pay any expenses incurred by the Company.</p> <p>4. Credit</p> <p>4.1 Any contract will be subject to the Company being satisfied as to the Buyer's credit worthiness and without prejudice to the generality of the foregoing the Company may in its absolute discretion, having informed the Buyer that the Goods are ready for delivery, refrain from delivering the Goods until such time as the Buyer tenders the purchase money to the Company in a form satisfactory to the Company.</p> <p>4.2 For so long as any account remains unpaid we shall have an absolute right of lien upon any of your goods that may be in our possession or under our control and we may enforce such lien whenever and to the extent that any payment is three months overdue without previous notice to you.</p> <p>5. Settlement Terms</p> <p>5.1 Accounts are payable within 30 days of the date of the Company's invoice. If the Buyer has exceeded any agreed credit terms, the Company reserves the right to refuse credit at any time and demand immediate payment of all monies outstanding.</p> <p>5.2 The Company, at its discretion, reserves the right to charge interest on accounts outstanding beyond the time specified in this condition. The rate of interest will be 3% per annum over Royal Bank of Scotland plc's base lending rate from time to time in force. The Company may exercise this right in addition to other rights it may have in respect of the Goods or non-payment.</p> <p>5.3 Where the contract is to be or may be fulfilled in separate instalments deliveries or parts, payment for each such instalment delivery or part will be made as if the same constituted a separate contract. Failure by the Buyer to pay for an instalment in accordance with this clause will entitle the Company without prejudice to its other rights and remedies to suspend further deliveries of Goods under any other contract to the Buyer, pending payment by the Buyer.</p> <p>5.4 The Buyer will indemnify the Company against all costs, losses and liability including but not limited to all legal expenses and disbursements incurred by the Company in recovering any amount which is overdue from the Buyer to the Company pursuant to this Agreement or otherwise.</p> <p>6. Prices</p> <p>6.1 The prices given in our quotations or acknowledgements include only such work and services as specified therein. The extra cost of any work not specifically required by the contract shall be added to the contract price and paid for accordingly and all such work shall be carried out subject to these conditions.</p> <p>6.2 Unless otherwise agreed in writing between the Company and the Buyer, all prices are given by the Company on an ex-works basis and where the Company agrees to deliver the Goods otherwise than on an ex-works basis, the Buyer shall be liable to pay the Company's charges for transport, any special packaging and insurance.</p> <p>6.3 In the event of termination, variation or suspension of a contract on the Buyer's instruction or by lack of instruction, the contract price will be adjusted to reflect the additional costs incurred by the Company. Where a price per unit has been quoted and the Buyer requires a smaller number of units to be delivered than those quoted for, the Company reserves the right to adjust the rates of prices applicable thereto.</p> <p>7. Delivery</p> <p>7.1 Delivery dates (if any) given by the Company are given in good faith to indicate estimated delivery times but will not amount to any contractual obligation to deliver at the times stated. The Company will not be liable for any loss including (but not limited to) loss of profit, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence) nor unless any delay exceeds 180 days will such delay entitle the Buyer to terminate or rescind the contract.</p> | <p>7.2 Failure by the Company to deliver any one or more (but not all) instalments in accordance with this contract will not entitle the Buyer to treat this contract as repudiated.</p> <p>7.3 If the Buyer fails to take delivery of any of the Goods when they are ready for delivery, or fails to provide any instructions or authorisation required to enable the Goods to be delivered on time the Goods will be deemed to have been delivered and (without prejudice to its other rights) the Company may:-</p> <p>7.3.1 store the Goods until actual delivery or sale and charge the Buyer for all related costs and expenses (including without limitation, storage and insurance); and/or</p> <p>7.3.2 following written notice to the Buyer, sell any of the Goods at the best price reasonably obtainable in the circumstances and charge the Buyer for any shortfall below the price agreed with the Buyer.</p> <p>8. Passing of Title/Risk</p> <p>8.1 Risk of damage to or loss of the Goods will pass to the Buyer upon delivery.</p> <p>8.2 Ownership of the Goods will not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and all other sums which are or which become due to the Company from the Buyer on any account.</p> <p>9. Loss or Damage in Transit</p> <p>9.1 We shall be under no liability for any loss or damage in transit unless due to negligence on our part or that of our servants or agents and then only if notice is received in writing of such loss or damage is received by us within 8 days after delivery or advice of delivery.</p> <p>10. Standards</p> <p>10.1 Unless otherwise agreed in writing the quality and finish of work shall be such as will provide a reasonable service in compliance with the generally recognised standards in the trade for the class of work, type, quality and a finish of the product concerned.</p> <p>10.2 We shall accept no liability under paragraph 10.1 of this clause (whether any defect is apparent on inspection or not) unless a written claim is made within 14 days of the receipt of the goods stating the alleged defect in standard or quality of work or finish whereby the goods are not in accordance with the contract and a reasonable number of articles exhibiting the defect or defects complained of is or are apparent are forwarded to us for inspection within the said period and we are given the opportunity to remedy any such defect or defects. Our liability hereunder (if any) shall in all cases be limited in accordance with the provisions of clauses 13 and 16 hereof.</p> <p>10.3 Notwithstanding any standard testing and / or special testing carried out by the Company pursuant to clause 11 of these Conditions, it is the Buyer's responsibility to ensure that the goods are suitable for and have been appropriately tested for its needs. To the fullest extent permissible by law, the Company expressly disclaims all warranties that the use of the goods shall be suitable or fit for their intended purpose.</p> <p>11. Tests</p> <p>11.1 Our products and work are carefully inspected and where applicable submitted to standard tests before despatch. Special tests not identified in our acknowledgment of order will be charged for. In the case of destructive tests such as hardness and adhesion, these would include the provision of suitable test pieces and there processing but will not be carried out unless we are specifically instructed to do so in identified batches. In such cases, provision of agreed suitable test pieces will be your responsibility unless otherwise agreed.</p> <p>12. Performance</p> <p>12.1 We will accept no liability for failure to attain any performance figures quoted by us unless we have specifically guaranteed them in the contract. If the performance figures obtained on any test provided for in the contract are outside the acceptance limits specified therein, you will be entitled to reject the goods, but before rejecting the goods and claiming, within the provisions of clause 16, you will give us reasonable time and opportunity to rectify their performance. You assume responsibility that processes stipulated by you are sufficient and suitable for your purpose save insofar as your stipulations are in accordance with our advice.</p> <p>13. Defects</p> <p>13.1 We shall be under no liability howsoever arising in respect of any defect appearing in any goods, component or parts at any time which is due or partly due to the material of which the same is made, its design or method of manufacture, or any process or treatment applied thereto by any person other than ourselves.</p> <p>13.2 We undertake to make good free of charge any defects which, under proper use, appear in goods, components or parts the subject of the contract which are due to faulty materials, workmanship or design (other than materials or workmanship or design provided or specified by you) provided there has been no maltreatment thereof and provided further that we are notified in writing immediately such defects appear and the defective parts are returned to us for rectification.</p> <p>13.3 This undertaking shall be accepted by you in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of such goods, components and parts or as to the manner in which work is done and save as provided in this clause we shall be under no liability, whether for breach of contract or of statutory duty, in tort (including but not limited to negligence) or otherwise in respect of any defects therein or for any service or advice in relation thereto or for any injury (other than death or personal injury caused by negligence on our part as defined in the Unfair Contract Terms act, 1977) or for any loss or damage resulting from such defects or from any work done in connection therewith.</p> | <p>13.4 The Buyer shall store all goods in accordance with good industry practice and all reasonable directions of the Company. In particular, but without limitation to the foregoing, the Buyer shall ensure that Goods are not stored in damp conditions which may cause deterioration of the Goods. So far as permissible by law, the Company shall have no liability howsoever arising to the Buyer for any loss or deterioration in the quality, condition or performance of the goods occurring as a director or indirect result of the Buyer's breach of this clause.</p> <p>14. Rejects</p> <p>14.1 Within the requirements of AS9100 any reject components will be quarantined and positively marked. Customers will be notified as to their disposition. Unless written permission to ship to customer is received within 3 working weeks the parts will either be scrapped off at Hardide's premises OR returned to supplier rendered unusable.</p> <p>15. Confidential Information</p> <p>15.1 All specifications, drawings, technical descriptions and details of processes (hereinafter called "information") submitted or supplied to you are supplied in confidence. You shall keep the information confidential and shall not disclose the same to any third party without our prior written consent.</p> <p>15.2 All drawings, descriptions and other information submitted by the Company will remain the property of the Company together with the copyright therein.</p> <p>16. Limitations of Liability</p> <p>16.1 Nothing in these terms and conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation, or the conditions as to title implied by section 12 of the Sale of Goods Act 1979 as amended from time to time.</p> <p>16.2 Any quotation includes only such Goods accessories and work in the quantities and to the specifications which are stated therein.</p> <p>16.3 Subject to clause 16.1 and 16.2 the Company's total liability in contract tort (including negligence or breach of statutory duty) misrepresentation or otherwise, arising in connection with the performance of this contract will be limited to the price agreed for the Goods; and the Company will not be liable to the Buyer by reason of any representation or any implied warranty, condition or other term, or any duty at law or under the express terms of this contract for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation (whether caused by the negligence of the Company, its employees, agents or subcontractor) which arise out of or in connection with this contract.</p> <p>17. Jigs or Tooling</p> <p>17.1 Any jigs or tools made by us for the purpose of the Contract shall remain our property notwithstanding that the cost thereof may be included in whole or in part in the Contract price. All drawings and information relating to such tools and jigs remain our property and our copyright and you undertake that you will not copy or make use of the same for the benefit of any third party without our prior written consent.</p> <p>18. Termination</p> <p>18.1 Without prejudice to any other rights or remedies under the contract either party may by written notice to the other, terminate the contract or (in the case of the Company) suspend future deliveries if:</p> <p>18.1.1 the other fails to comply with any material obligation hereunder and such failure has not been remedied within ten days of written notification from the party requiring remedy;</p> <p>18.1.2 the Buyer fails to furnish the Company with any information or instructions it requires to fulfil any order;</p> <p>18.1.3 any distress or execution is levied upon the Goods of the Buyer or if he makes or offers to make any arrangement with or for the benefit of his creditors or commits any act of bankruptcy or, being a limited company has a receiver appointed of its undertaking or assets or any part thereof or for the purposes of a reconstruction or amalgamation without solvency goes into liquidation or has a administrator or administrative receiver appointed.</p> <p>19. Legal Construction</p> <p>19.1 Unless otherwise agreed by the Company in writing these conditions will in all respect be construed and operate as an English contract, in conformity with English law, and the parties submit to the exclusive jurisdiction of the English courts.</p> <p>19.2 Any provision of this contract which is held by any competent authority to be invalid, void, voidable, unenforceable or unreasonable (in whole or part) will to the extent of such invalidity, voidance, unenforceability or unreasonable be deemed severable and the other provisions of this contract and the remainder of such provisions will not be affected.</p> <p>19.3 Failure by the Company to enforce or partially enforce any provision of this contract will not be construed as a waiver of any of its rights under this contract.</p> <p>20. Force Majeure</p> <p>20.1 The Company will not be liable to the Buyer in any manner or be deemed to be in breach of this contract because of any delay in performing or any failure to perform any of the Company's obligations under this contract if the delay or failure was due to any cause beyond the Company's reasonable control.</p> <p>20.2 Without prejudice to the generality of condition 20.1 the following will be included as causes beyond the Company's reasonable control, governmental actions, war or threat of war, national emergency, riot, civil disturbance, sabotage or requisition, act of God, fire, explosion, flood, epidemic or accident, import or export regulations or embargoes, labour disputes not including disputes involving the Company's workforce, inability to obtain delay or obtaining supplies of adequate or suitable material, fuel, parts, machinery or labour.</p> |
|---|--|---|