



TERMS AND CONDITIONS

1. Interpretation

1.1 In these Conditions:

"Buyer"

means the person, firm, company or organisation who accepts a quotation of the Seller for the sale of the Products or whose order for the Products is accepted by the Seller

"Products"

means the products or materials (including any instalment or any part of them) which the Seller is to supply in accordance with these conditions

"Seller"

means Cantoo Design Limited (Registered in England No. 5538 310) whose registered office is at Ladywood Arts Centre, 316 Monument Road, Birmingham B16 8TR

"Conditions"

means the general terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller (in the event of any conflict the special conditions shall have precedence over these general conditions of sale) and a reference to a numbered Condition shall be a reference to the relevant numbered Condition set out in this document

"Contract"

means the contract for the purchase and sale of Products and installation (where necessary).

"Writing"

includes letter facsimile transmission and comparable means of communication, including electronic communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time

1.3 The headings in these Conditions are for convenience only and shall not effect their interpretation

2. Basis of the Sale

2.1 The Seller shall sell and the Buyer shall purchase the products in accordance with any written quotation of the Seller which is accepted by the Buyer or any written order of the Buyer which is accepted by the Seller subject in either case to these Conditions which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or any such order is made or purported to be made by the Buyer

2.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and Seller

2.3 The Seller's employees or agents are not authorised to make any representations concerning the Products unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the suitability application or use of the Products which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed

2.5 Any typographical clerical or other error or omission in any sales literature quotation price list acceptance of offer invoice or other document or information issued by the Seller shall be subject to correction within any liability on the part of the Seller or objective by the Buyer

3. Orders and Specifications

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer and for giving the Seller any necessary information relating to the Products within a sufficient time to enable the Seller to perform the Contract in accordance with its terms

3.3 The quantity quality and description of and any specification for the Products shall be those set out in the Seller's quotation schedule of items (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller). In the event of a conflict between the two the Seller's quotation will prevail.

3.4 If the Products are to be manufactured or any process or fitting is to be applied to the Products by the Seller (or sellers agents) in accordance with a specification submitted by the Buyer the Buyer shall indemnify the Seller against all loss damages costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent copyright design trademark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

3.5 The Seller reserves the right to make any changes in the specification of the Products which are required to conform with any applicable safety or other statutory requirements or where the Products are to be supplied to the Seller's specification which in any case do not materially affect their quality or performance.

3.6 No order which has been accepted by the Seller may be cancelled by the Buyer except in agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit) costs (including the cost of all labour and materials used) damages charges and expenses incurred by the Seller as a result of cancellation including any consequential loss and (by way of example and without limitation) any damages which the Seller must pay to suppliers with whom the Seller has contracted in furtherance of the performance of the Contract

4. Price of the Products

4.1 The price of the Products shall be the Seller's quoted price. Unless agreed in writing by the Seller all prices quoted are valid for 30 days only or until earlier acceptance by the buyer.

4.2 The Seller reserves the right by giving notice to the Buyer at any time before delivery to increase the price of the Products to reflect any increase in costs to the Seller due to any factor beyond the control of the Seller or any change in delivery dates quantities or specification for the Products requested by the Buyer or any delays caused by any instruction by the Buyer or the failure of the Buyer to give the Seller adequate or timely instructions or information.

4.3 Except as otherwise stated under the terms of any quotation of the Seller and unless otherwise agreed in writing between the Buyer and the Seller all prices are given by the Seller inclusive of delivery, but not inclusive of accommodation for employees (unless otherwise stated).

4.4 The price is exclusive of any value added tax which the Buyer shall be liable to pay to the Seller and any other applicable tax or duty which is imposed from time to time by H M Government

4.5 Unless otherwise stated the price is strictly nett and not inclusive of Main Contractor's Discount (MCD)

5. Terms of Payment

- 5.1 Subject to any special terms agreed in writing between the Buyer and the Seller the Seller shall be entitled to invoice the Buyer for the price of the Products on or at any time after the delivery of the Products unless the Products are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Products in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Products are ready for collection or (as the case may be) the Seller has tendered delivery of the Products
- 5.2 The Buyer shall pay the price of the Products within the agreed credit terms or if there are no such terms within 14 days of the date of the Seller's invoice notwithstanding that delivery may not have taken place and the property in the Products has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request
- 5.3 The Buyer shall make all payments in full and in the agreed period without any deduction, penalties, or retentions, for whatever reason under the contract.
- 5.4 The Seller shall have a general and particular lien over any property of the Buyer in its possession in respect of any monies due to the Seller from the Buyer from time to time
- 5.5 If the buyer fails to make payment on the due date then without prejudice to any other right or remedy available to the Seller the Seller shall be entitled to:
- 5.5.1 Cancel the Contract or suspend any further deliveries to the buyer
 - 5.5.2 appropriate any payment made by the Buyer to such of the Products (or the materials supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - 5.5.3 charge the Buyer interest (Both before and after any judgement) on the amount unpaid at the rate of 4 per cent per annum above Lloyds TSB Bank plc base rate from time to time until payment in full is made (a part month being treated as a full month for the purpose of calculating interest).
 - 5.5.4 The Seller will keep the Right of Retention of the products (inclusive of Right of Entry) to take back all the Sellers products. Any other additional costs incurred of this action will be charged to the Buyer.
- 5.6 The Seller may from time to time notify the Buyer of a credit limit and with prejudice to the remainder of these Conditions shall be entitled to take one of the following steps whenever the Buyer has exceeded the credit limit notified to it:
- 5.6.1 to revoke its acceptance of any order placed by the Buyer
 - 5.6.1 to require the Buyer to pay in advance the delivery for outstanding orders for Products notwithstanding any credit terms agreed between the parties
 - 5.6.2 to suspend deliveries of Products
 - 5.6.3 The credit limit referred to in Condition 5.6 may be adjusted up or down or withdrawn as the Seller may consider reasonable in the circumstances

6. Delivery

- 6.1 Delivery of the Products shall be made by the Seller delivering the Products to the address indicated by the Buyer or if the Buyer is to collect them after the Seller has notified the Buyer that the Products are ready for collection
- 6.2 Any dates quoted for delivery of the Products are approximate only and the Seller shall not be liable for any delay in delivery of the Products howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Products may be delivered by the Seller in advance of the quoted delivery date (and by one or more deliveries) upon giving reasonable notice to the Buyer

6.3 Where the Products are to be or are delivered in instalments each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole repudiated

6.4 If the Seller fails to deliver the Products for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault and the Seller is accordingly liable to the Buyer's and Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Products

6.5 If the Buyer fails to take delivery of the Products within fifteen days of notification by the Seller that the Products are ready for collection or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.5.1 store the Products until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.5.2 sell the Products at the best price readily obtainable and (after deducting all reasonable costs and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract

7. Risk and Property

7.1 Risk of damage to or loss of the Products shall pass to the Buyer:

7.1.1 in the case of Products to be delivered at the Seller's premises at the time when the Seller notifies the Buyer that the Products are available for collection; or

7.1.2 in the case of Products to be delivered otherwise than at the Seller's premises at the time of delivery or if the Buyer wrongfully fails to take delivery of the Products at the time when the Seller has tendered delivery of the Products

7.1 Notwithstanding delivery and the passing of risk in the Products or any other provision of these Conditions the property in the Products shall not pass to the Buyer until the Seller has received in cash or clear funds payment in full of the price of the Products and all other materials agreed to be sold by the Seller to the Buyer for which payment is then due

7.2 Until such time as property in the Products passes to the Buyer the Buyer shall hold the Products as the Seller's fiduciary agent and bailee and shall keep the products separate from those of the Buyer and third parties and properly stored protected insured and identified as the Seller's property. Until that time the Buyer shall be entitled, subject to Condition 7.6, to resell or use the Products in the ordinary course of its business (as principal and not as agent of the Seller)

7.3 Until such time as the property in the Products passes to the Buyer (and provided the Products are still in existence and have not been resold) the Seller shall be entitled at any time to require the Buyer to deliver up the Products to the Seller and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or any third party where the Products are stored or thought by the Seller to be stored and repossess the Products

7.4 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain the property of the Seller but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable

7.5 The entitlement of the Buyer to use or resell the Products shall cease forthwith on any of the events set out in Conditions 9.1.1, 9.1.2 or 9.1.3, occurring or on notification by the Seller to the Buyer under Condition 9.1.4, which ever shall first occur, unless agreed otherwise in writing by the Seller

7.6 If the Products have been used joined or connected in any way to other chattels in such a way that the Products are nevertheless readily identifiable and removable the Seller shall be entitled to remove and repossess the Products pursuant to condition 7.4 regardless of the practical difficulty of doing or the damage caused to such other chattels or any other property or assets in the course of taking all reasonable steps to effect such removal (whether such chattels, property or assets belong to the Buyer or to third parties) and the Buyer waives any claim it may have against the Seller for any damage caused to its chattels or other property as a result of taking such reasonable steps and shall indemnify the Seller in full against any claim made against the Seller by any third party arising out of or in connection with such reasonable steps being taken by the Seller

8 Warranties and Liability

8.1 Subject to the conditions set out below the Seller warrants that the Products will correspond with the specifications (if any) referred to in Condition 3.3 at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of delivery

8.2 The above warranty is given by the Seller subject to the following conditions:

8.2.1 The due performance and observance by the Buyer of the terms and conditions of the Contract including payment of the total price for the Products on the due date for payment

8.2.2 The Seller shall be under no liability in respect of any defect in the Products arising from any error in the specification drawings or designs supplied by the Buyer; or from the Sellers manufacturing agents or installations teams

8.2.3 The Seller shall be under no liability in respect of any defect arising from fair wear and tear wilful damage negligence abnormal working conditions failure to follow the Seller's instructions (whether oral or in writing) accidents which the Products cannot reasonably be expected to withstand misuse inadequate storage alteration or repair of the Products without the Seller's written approval

8.2.4 any warranty given by the Seller in respect of mechanical and electrical works shall be limited to a period of 12 months from the date of completion of the relevant work

8.2.5 the above warranties do not extend to parts materials or equipment not manufactured by the Seller in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller

8.3 The Buyer shall check the specifications of the Products thoroughly forthwith upon delivery or as soon as reasonably practicable thereafter and any claim by the Buyer which is based on any defect in the quality or condition of the Products or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days of the date of the delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused and the Buyer does not notify the Seller accordingly the Buyer shall not be entitled to reject the Products and the Buyer shall be bound to pay the price as if the Products had been delivered in accordance with the Contract. In no event shall the Buyer be entitled to reject the Products on the basis of any defect or failure which is so slight that it would be unreasonable for the Buyer to reject them

8.4 Where any valid claim in respect of any of the Products which is based on any defect in the quality or condition of the Products or their failure to meet specification is notified to the Seller in accordance with these Conditions the Seller shall be entitled to repair or replace the Products (or the part in question) free of charge or at the Seller's sole discretion refund to the Buyer the price of the Products (or a proportionate part of the price) but the Seller shall have no further liability to the Buyer whatsoever

8.5 Except in respect of death or personal injury caused by the Seller's negligence the Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent) or any implied 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) costs of expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Seller its employs or agents or otherwise) which arise out of or in connection with the supply of the Products or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Products, except as expressly provided in these Conditions

8.6 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing or in failure to perform any of the Seller's obligations in relation to the Products if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Seller's reasonable control:

8.6.1 Act of God, explosion, flood, tempest fire or accident;

8.6.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition;

8.6.3 Acts restrictions regulations bye-laws prohibitions or measures of any kind on the part of any governmental parliamentary or local authority;

8.6.4 import or export regulations or embargoes;

8.6.5 strikes lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party)

8.6.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;

8.6.7 power failure or breakdown in machinery;

8.6.8 failure by the Buyer to correctly store protect handle or otherwise deal with the Products.

9 Insolvency of Buyer

9.1 This condition applies if:

9.1.1 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of a bona-fide solvent amalgamation or reconstruction); or

9.1.2 an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Buyer; or

9.1.3 the Buyer ceases or threatens to cease to carry on business; or

9.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly

If this condition applies then without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without liability to the Buyer and if the Products have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary

10 General

10.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice

10.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered a waiver of any subsequent breach of the same or any other provision

- 10.3 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 provision in question shall not be affected thereby
- 10.4 The Contract shall be governed by the laws of England and the Buyer shall submit to the non-exclusive jurisdiction of the English courts.
- 10.5 For the avoidance of doubt nothing in this Contract shall confer on any third party any benefit or the right to enforce any term of this Contract.

11. Supplementary Conditions for Supply and Installations Contracts

- 11.1 The Seller requires min. 6 week's notice of the date of gaining access to site. The Seller's site requirements are:-
- a) The site should be clear and suitable for work to commence.
 - b) Walls and floors should have final finishes, including paints, benching and carpets (if applicable) and any services by others installed.
- 11.2 The Seller reserves the right to invoice the material content of the job on the date first specified under paragraph 1 above.
- 11.3 The Buyer shall supply suitable artificial lighting if necessary and a 110/240V AC electrical supply with a point suitable for portable electric tools. Delay caused by lack of the facilities may be charged as an extra
- 11.4 Unless otherwise specified in our Contract, all necessary scaffolding towers, hoists, trestles, boards or other specialised plant shall be supplied by the Buyer or his agent free of charge to the Seller.
- 11.5 It is the responsibility of the Buyer to ensure that all walls, floors, fabric and structure of the building are adequate to withstand the loads imposed by our structure or equipment.
- 11.6 If the Buyer elects to have installation carried out by other than the Seller's own workmen or agents no responsibility will be accepted by the Seller in regard to any defect which may arise as a result of such fixing and erection.
- 11.7 The Seller will not accept any responsibility or claims for delays in building operations through slowness or delay in installation due to site difficulties, weather conditions, hold up by other trades, strikes, lockouts, act of God, or other unforeseen circumstance. The Buyer is liable for any additional labour caused due to delays or slowing installation.
- 11.8 All quotations are based upon the assumptions that the installation area and access to the installation area will be cleared to enable the Seller's workmen to operate without hindrance and they will not be prevented from working continuously between 8.00am and 6.00pm. Weekdays and at premium time at weekends, if deemed necessary by the Seller. In the event of the Seller's workmen being required to wait or stop working for the convenience of the Buyer or other trades, time will be charged at the Seller's Daywork rates.
- 11.9 Should the Seller's workmen be required to leave site through circumstances beyond the Seller's control, the travel time and additional fares and or accommodation incurred will be charged extra.
- 11.10 Where the alteration to the buyers premises or site, or change in the layout from that shown by the Seller's drawing, involves additional goods or work an extra charge will be made.
- 11.11 All drawings prepared by the Seller for both design and layout are confidential and remain the exclusive property of the Seller. No unauthorised use, copy or disclosure of the drawings may be made.

- 12.1 If the performance of the contract by the Seller shall be delayed by any circumstances or conditions beyond the control of the Seller, then the Seller shall have the right at its option
- a) to suspend further performance of the contract until such time as the cause of the delay shall no longer be present, or
 - b) to be discharged from the further performance of liability under the contract and if the Seller exercises the right, the customer Buyer thereupon pay the contract price, less a reasonable allowance for what has not been performed by the Seller.

13 Legal Construction

- 13.1 This contract shall be construed in accordance with English law and shall be subject to the jurisdiction of the English courts.

14 Customer's Rights

- 14.1 Nothing in these conditions shall affect the statutory rights of a customer, who in relation to the Seller, 'deals as a consumer' as defined in Section 12 of the Unfair Contract Terms Act 1977, or any amendment or modification thereof.

STANDARD QUOTATION ALLOWANCES

1. All costs are exclusive of VAT unless otherwise stated.
2. Allowances have only been made for a 2.5% main contractor discount when specified on our quotation. I.E. – All prices are NET unless otherwise stated.
3. Our standard terms and conditions of sale apply.
4. Our quotation is valid for 30 days.
5. We have allowed for a minimum working day of 8.00 am to 6.00 pm and access to the area being made available Monday to Friday. 4.00pm on Fridays.
6. Our standard payment terms are 30 days following the date of invoice.
7. We require a minimum of six weeks notice from receipt of order, design freeze, and confirmation of all finishes prior to our delivery and installation start date, however, larger contracts may require additional notice depending upon the content.
8. We require two weeks notice of any delays that will affect our agreed start date. Storage costs and labour costs may be incurred for delayed projects, with or without notice.
9. We reserve the right to invoice for goods manufactured and stored if the agreed delivery date is amended at short notice.
10. We reserve the right to invoice for any changes in drawing and the scope of works that may occur during our installation.
11. We reserve the right to invoice for abortive deliveries.
12. We have allowed for attendance of site meetings if required.
13. We have not allowed for any building work, mechanical and electrical work, removal and/or repositioning of existing furniture, decorations, flooring, ceilings, full contract cleaning, provision of skips, scaffolding unless otherwise specified on our quotation.
14. We have not allowed for any works and/or products other than those listed in the scope of our works, and scheduled.
15. We have not allowed for a phased installation unless specified in our quotation.
16. We have not allowed for any site presence over weekends and bank holidays.