

# STANDARD TERMS AND CONDITIONS FOR THE SALES OF GOODS AND/OR SERVICES

## 1. APPLICATION

1.1 The Company hereby agrees that it will sell and the Buyer agrees that it will buy the Goods described on or by the Buyer's Order as accepted on the Company's Order Acknowledgement, on these Conditions (save as specifically varied in the Order Acknowledgement) which shall govern the Contract.

1.2 Any reference on the Order Acknowledgement to the Buyer's Order or to the Buyer's specification or like document shall be solely for the purpose of describing the Goods and no terms and conditions endorsed upon, delivered with or referred to in any such document or any terms and conditions supplied by the Buyer shall apply to the Contract.

1.3 Coopers General Terms and Conditions Version 3 dated 10<sup>th</sup> August 2017 (save as specifically varied in the Order Acknowledgement) shall be deemed to be incorporated into the Contract. The Buyer acknowledges that the Coopers General Terms and Conditions are available on the Coopers website.

## 2. DEFINITIONS

In these Conditions:-

**Company** means the Coopers Company which issues the Order Acknowledgement and performs the Contract;

**Conditions** means the standard terms and conditions of sale set out in this document and includes the Coopers General Terms and Conditions referred to above;

**Contract** means the agreement formed as set out in clause 3.2 below;

**Delivery Address** means the address stated on the Purchase Order for delivery of the Goods and/or Services;

**Goods** means the goods (including any instalment of the goods or any part of them) described in the Purchase Order and includes any ancillary services to be provided with the goods;

**Goods and/or Services** means the Goods and/or Services as the case may be;

**Party** means either the Company or the Buyer;

**Price** means the price of the Goods and/or Services;

**Purchase Order** means the Buyer's Purchase Order;

**Services** means the services (including any instalment of the services or any part of them) described in the Purchase Order and includes any ancillary goods to be provided with the services;

## 3. FORMATION AND SCOPE OF CONTRACT

3.1 A Quotation, whether or not contained in a Quotation Form, is not an offer and shall not be binding on the Company.

3.2 A binding contract for the supply of the Goods, incorporating these Conditions, shall exist upon whichever is the earlier of:-

3.2.1 the Company's communication of its Order Acknowledgement, or

3.2.2 delivery of the Goods to the Buyer's address.

3.3 No variation, waiver or additional term or condition, express or implied, of or to these Conditions shall be binding on the Company or the Buyer, except as expressly agreed to by both parties in writing.

3.4 Any typographical clerical or other accidental error or omission in the Quotation or in any drawings, specification, instructions, tools or other material to be supplied by the Company, shall be subject to correction without any liability on the part of the Company.

3.5 The Buyer shall be liable to the Company if any inaccurate or incomplete measurement or description of the intended location or use of the Goods in any Order results in the Company having to rework or resupply the Goods.

3.6 Any specification drawing or description of the Goods produced by the Company for the Buyer for or in respect of the Contract, together with the copyright, design rights and any other intellectual property rights in such specification, drawing or description, or in the Goods themselves, shall be the exclusive property and confidential information of the Company.

## **4. PRICES**

Prices are quoted exclusive of Value Added Tax unless specifically stated. The Company reserves the right to vary the price of the Goods by notice to the Buyer to the extent that there is any material increase in the cost of the Goods to the Company by any reasonable cause beyond the control of the Company.

## **5. TERMS OF PAYMENT**

5.1 All payments shall be made by the Buyer without any deduction set off or counterclaim whatsoever.

5.2 Unless otherwise specifically agreed in writing between the Company and the Buyer, payment for the Goods shall be made within thirty (30) days of the date of the invoice.

5.3 All payments shall be made in sterling to the Company's bank account. All bank charges for the transfer of payment to the United Kingdom shall be for the Buyer's account.

5.4 If any sum payable by the Buyer hereunder is not paid within fourteen (14) days of having fallen due, interest shall be payable by the Buyer on the amount of the unpaid sum at the rate of 3 percent per annum above National Westminster Bank PLC Base Rate from time to time calculated on a daily basis from the date on which such sum fell due to the date of actual payment.

## **6. DELIVERY**

6.1 Unless otherwise specifically agreed in writing between Company and the Buyer all costs and charges in respect of transport and delivery including insurance (if any) during transit shall be borne by the Buyer.

6.2 Any time for delivery stated by the Company is an estimate only. Although the Company will use all reasonable endeavours to supply the Goods and make deliveries in accordance with any time stipulation contained in the Contract, time is not of the essence of the Contract. If the Company for whatever reason is unable to supply the Goods or make a delivery in accordance with the time stipulation, the Company is entitled to a reasonable extension of the time for delivery, without entitling the Buyer to cancel the Contract and the Company shall not be liable for any loss or damage suffered by the Buyer by reason of any delay in supply or delivery.

6.3 Where delivery of the Goods is to be made by instalments, each delivery shall be deemed to be and treated as a separate Contract but the failure of any delivery shall not violate the Contract as to any other delivery. Payment of any sum on the due date is a condition precedent to future deliveries.

## **7. RISK**

7.1 If delivery of the Goods under the Contract is to be made to the Buyer, the Goods will be at the Buyer's risk as from the time of delivery. If the Contract provides for delivery to be ex works, the risk in the Goods shall pass to the Buyer as from the date when the Goods have been delivered by the Company to a carrier for transmission to or at the direction of the Buyer.

7.2 Where the Goods remain at the risk of the Company after dispatch or if the Buyer has failed to provide suitable delivery instructions or facilities, the Buyer is liable to the Company for all loss or damage caused by the failure of the Buyer to do anything necessary to enable the Company to deliver the Goods and/or pursue any claim which the Company may have against the carrier.

7.3 It is the sole responsibility of the Buyer to ensure that on arrival at their destination the Goods are expeditiously and safely unloaded. The Company is not liable for any damage to the Goods caused during unloading or for any other loss or damage occasioned thereby.

## **8. PASSING OF PROPERTY**

8.1 Title to and ownership of the Goods shall not pass to the Buyer but remain with the Company, until full payment for and in respect of the Goods has been received by the Company.

8.2 The Buyer shall not re-sell, or export, or incorporate into another product or thing or affix to any building any of the Goods which have not been paid for but shall keep and store such unpaid Goods identified as belonging to the Company and separate from any other goods product or thing.

8.3 While any of the Goods remain unpaid for the Company shall be entitled to a demand that the Buyer at the Buyer's own expense returns the Goods to the Company but if the Buyer should refuse or fail within seven (7) days of such a demand to return the Goods the Company is irrevocably authorised by the Buyer without notice to enter into the premises of the Buyer and recover the Goods.

## **9. WARRANTY AND SUITABILITY**

9.1 Goods are sold with the express understanding that the Buyer will independently determine the suitability of the Goods for the purpose they are supplied. All drawings, illustrations or specifications accompanying or referred to in a Quotation or contained in any price list or catalogue are to be treated as explanatory only and shall not form part of the Contract. It is the responsibility of the Buyer to ensure that the Goods are adequate for the purpose intended and to have tested the suitability of the Goods for the particular use contemplated. The Company is not responsible for any loss direct or consequential by reason of the Goods not being fit for such purpose or use.

9.2 The Company warrants the Goods on the terms of Coopers standard Warranty applicable at the time the Contract is entered into. The Buyer acknowledges that Coopers standard Warranty is available on the Coopers website.

## **10. CLAIMS BY THE BUYER**

It shall be the duty of the Buyer to inspect the Goods on delivery. The Company shall not be liable for any claim whatsoever by the Buyer howsoever arising (including any claim arising by reason of the negligence of the Company or its servants or agents) in respect any obvious loss or damage in transit unless notice is given to the Company and the carrier as the case may be within three (3) days of delivery, nor for any defect in quality or quantity of Goods unless notice is given to the Company within ten (10) days of delivery. In the event of the Buyer submitting a claim as above, the Buyer will at its own expense return the Goods the subject of the claim to the Company within seven (7) days of notifying the complaint.

## **11. LIABILITY**

11.1 In the event of any liability or loss, direct or consequential, caused or suffered by the Buyer in consequence of any defect in the Goods, such defect being caused by the manufacturer supplier or sub-contractor to the Company, the Company shall be under no liability in respect thereof save as set out in Coopers standard Warranty but upon written request of the Buyer the Company will assign to the Buyer such rights as it has against such manufacturer supplier or sub-contractor provided always that the Buyer keeps the Company at all times fully indemnified in respect of the cost thereof.

11.2.1 If the scope of works detailed within the Contract specify or imply any level of design responsibility on the part of the Company, the extent of the Company's design responsibility, as a Fire and Smoke Curtain product manufacturer, is limited to compliance to relevant product standards only (or relevant parts thereof) in respect of the Goods. Where applicable, the Company will provide input to the mechanical and electrical interface between the Goods and the surrounding and supporting construction and systems or property into which the Goods are to be installed in so far as it pertains or is relevant to the installation process.

11.2.2 Professional fire safety strategies, cause and effects matrices and wider structural, electrical and environmental conditions within the property are to be dealt with by and are the responsibility of professional designers and engineers as part of the professional design team and not the Company.

11.2.3 Where provided and where acceptable to the Company in its Order Acknowledgement, the Company will meet the specifications generated by such professional designers and engineers but the Company makes no provision for any advice beyond the input referred to in clause 11.2.1 above, and any such advice is a separate professional service and discipline and will form part of a separate contract or a specific part of the Contract.

11.3 Subject as herein provided, all warranties, guarantees, conditions and representations on the part of or to be performed by the Company whether collateral hereto or otherwise and whether express or implied by common law, statute, or custom of the trade or otherwise are hereby expressly excluded and extinguished so far as the applicable law will allow.

11.4 In no event will any liability of the Company extend to any loss of profit or goodwill or damage to plant or other assets of the Buyer or for any cost incurred by the Buyer in repairing or doing work on the Goods (unless such repairs or work is effected by or on behalf of the Buyer with the prior written consent of the Company) or for any consequential or special loss or damage sustained by the Buyer arising out of any non-delivery, damage in transit or defect of the Goods.

11.5 The Buyer shall indemnify the Company in the event of any claim against the Company by reason of any loss, damage or injury occasioned by the Goods after delivery or arising out of the use of the Goods by the Buyer or others persons, other than where the Buyer has a valid claim under Coopers standard Warranty and then only to the extent thereof.

## **12. BUYER'S OBLIGATION AND DEFAULT**

12.1 A Contract cannot be cancelled by the Buyer except with the Company's written consent and on terms which will indemnify the Company against all losses and costs occasioned by such cancellation.

12.2 No Goods, whether or not claimed by the Buyer and/or acknowledged by the Company to be defective, will be accepted if returned, unless such return is authorised by the Company.

## **13. SITE CONDITIONS**

Where the Company is installing or procuring the installation of the Goods on site, the Buyer shall provide reasonable working conditions including an adequate electrical power supply in the proximity of work to be carried out, such scaffolding or staging as may be necessary, secure storage space, parking, up-loading and hoisting facilities free of charge.

Version 2 - 31st May 2015