



STANDARD TERMS & CONDITIONS OF BUSINESS

"Company" shall mean Southern Maintenance Solutions UK Limited

"Customer" shall mean the party to whom goods are sold or for whom work under this contract is performed.

"Goods" shall mean goods or services under a contract of sale or any materials or services supplied under a contract for work and materials.

In the event of any inconsistency between these conditions and the terms and/or conditions of the order placed by the Customer these conditions shall prevail unless otherwise agreed in writing by the Company. The Company supplies goods and services to the trade only and the Customer acknowledges and warrants that it is not "dealing as a consumer" within the meaning of the Unfair Contract Terms Act 1977.

A. QUOTATIONS AND PRICE

- Quotations are open for acceptance within 30 days only from the date thereof.
- Quotations are subject to the availability of goods and the Company shall have the right where necessary to substitute other goods of a similar or equivalent nature, subject only to the Customer's rights under Clause 4 herein.
- Quotations are based on the cost to the Company at the time thereof. Whilst the Company will use every endeavour to keep thereto, quotations shall not constitute a fixed price unless expressly so stated and the Company shall have the right to alter the price under this contract to reflect any increase in the rates payable by the Company in respect of wages, materials, goods and transport, in the course of performance of the contract.
- Prices are quoted (except where stated) exclusive of VAT which shall be charged at the rate prevailing at the date of invoice.
- The Company shall also have the right to alter the contract price to provide for:-
 - alterations in the Customer's requirements;
 - the Customer's instructions or lack thereof;
 - interruptions, delays, overtime, additional work or mistakes for which the Company is not responsible;
 - variations in any purchases, sales, export and import or any other tax of duty imposed on the work or Goods under the contract or affecting the contract price.
- The giving by the Customer of any delivery instructions for the goods or any part thereof shall constitute unqualified acceptance by the Customer of these conditions.
- All specifications, colours, illustrations, drawings and diagrams in the Company's catalogues, trade literature and other published matter are of a generally informative nature and approximate only and none of these form part of any contract or give rise to any independent or collateral liability of whatsoever nature on the part of the Company.
- Where it is discovered by the Company that any quotation or estimate given by it contains an accidental error or omission then, notwithstanding the quotation given, the Company shall be entitled to invoice and receive payment from the Customer in accordance with the price ruling at the date of despatch.
- The price is fixed for the period of the contract. The Company reserves the right to increase the charge for services if the increase in the Retail Price Index (all items) exceeds 5% per annum during the life of the contract.
- The Customer shall pay the Company for its service set out as per the Service Contract at the price stated. Any work carried out in addition to the services stated, as requested by the Customer, will be payable by the Customer.
- Maintenance contracts: The quoted cost of a service/maintenance contract is based solely on the time it takes to carry out the scheduled visit and includes any material cost agreed. There is no cost value to the length of time agreed within the contract dates therefore no remuneration will be made if the contract date is terminated prior to its original agreed date if all service visits have been completed.

B. TERMS OF PAYMENT

The terms of payment (unless otherwise stated) are:

- Payment in full within 28 days from the date of invoice.
- If payment of the price or any part or instalment thereof is not made on the due date the Company shall be entitled to:
 - charge interest on the outstanding amount at the rate of 3 percent per month and any other costs incurred in relation to the recovery of any sums outstanding shall be charged to the Customer and
 - suspend work.
- In the event of the Company agreeing to payment in stages or instalments, such payments shall be made within the time or on the dates agreed whether or not demanded and upon any stage or instalment becoming more than 28 days in arrears the whole balance of the contract price shall become due and payable forthwith.
- The Company shall be entitled to bring an action for the price whether or not the property in the goods has passed.
- All requests for works by any Customer or Individual will be deemed as being sanctioned by said Customer or Individual. Works will not be invoiced to third parties unless requested in writing and confirmed by third party at the time an order is placed.

C. RETENTION OF TITLE

- Notwithstanding delivery and passing of risk, title in the Goods shall not (unless otherwise agreed in writing by the Company in relation to specified Goods) pass to the Customer until whichever shall be the first to occur of the following:
 - full payment for the Goods (including any interest) being received by the Company and no other amount then being outstanding from the Customer to the Company;
 - the sale of the Goods by the Company in accordance with these conditions in which case title to the Goods shall pass to the Customer immediately prior to delivery of the Goods to the Customer.
- Until title to the Goods passes, the Customer will hold the Goods as fiduciary agent and bailee for the Company. The Goods shall, subject to paragraph 3, be kept separate and distinct from all other property of the Customer and of third parties and in good repair and condition and stored, identified and insured (at the Customer's cost) as the Company's property.
- Until payment:
 - the Customer is licensed by the Company to use or to sell the Goods in the ordinary course of its business;
 - the Company may at any time revoke this power of sale and use by notice to the Customer to take immediate effect;
 - this power of sale and use shall automatically cease on the happening of any event, commencement of any proceedings (in any jurisdiction) or taking of any action (whether by the Customer or any other person or body) which calls into question the solvency of the Customer;
 - upon determination of this power of sale and use, whether by notice or automatically, the Customer shall immediately place any of the Goods still in existence and unsold at the disposal of the Company who shall be entitled to enter upon any premises of the Customer to remove such Goods;

D. DESIGN

Where the Company has prepared plans and/or specifications ("Design") for an installation in accordance with a design brief agreed with the Customer, the Company shall use its best endeavours to ensure that the design is appropriate and the Customer is satisfied that it is suitable. The Company will not accept liability for any loss arising from any error or inaccuracy.

E. COPYRIGHT

All drawings specifications and literature prepared by or on behalf of the Company are the property of the Company and shall not be reproduced in any manner whatsoever without the prior written consent of the Company.

F. FRUSTRATION/CANCELLATION

- If the Contract shall become impossible to perform or shall be otherwise frustrated the Customer shall be liable to pay to the Company all costs which the Company shall have incurred directly or indirectly and any payments which may have been made to the Company shall be applied towards the satisfaction of such sum.
- Cancellation of order will only be accepted with the consent of the Company and on terms which indemnify it against all loss. This may result in a cancellation charge being levied.

G. ACCEPTANCE/RISK

- All work and goods shall be immediately inspected by the customer on completion or delivery to ensure that they are in accordance with the contract and the Customer shall give notice in writing to the Company within 7 days after completion or delivery or, where he is able to show that the delay is beyond his control, within a reasonable time after completion or delivery if he claims to reject the work or goods.
- The Goods are at the Customer's risk from physical delivery to the Customer. Goods and materials delivered to the Customer's premises for use in connection with a contract for work shall be kept by the Customer in a safe and secure place and insured against loss or damage.



H. DELIVERY/PERFORMANCE

- (1) Any date quoted for delivery or performance of work is an estimate only although every endeavour is made to adhere to it. The Company shall not be liable for any delay however caused.
- (2) If the Customer fails to give all necessary instructions and documents for the goods to be forwarded or the Customer shall otherwise cause or request delay, the Customer shall pay, as part of the price, all storage and other relevant costs.
- (3) Unless otherwise stated in writing the Company shall be entitled to make partial deliveries of the goods or deliveries of the goods by instalments and these conditions shall apply to each partial delivery.

I. DEFECTS AND LIABILITIES

- (1) Any complaint as to alleged defects in any work or goods shall be notified in writing to the Company by the Customer within 7 days of completion or receipt thereof or within a reasonable time of such defects becoming reasonably discoverable and the Company undertakes to investigate such complaint and where the work or goods are found by the Company to be defective its liability therefore shall be in accordance with this clause or so far as is applicable with any other legal obligation.
- (2) Notification in accordance with sub-clause (1) above shall be a condition precedent to the Company's liability, if any, unless the Customer is able to show reasonable grounds for his failure so to notify and such liability shall, in any event be limited to the repair or replacement free of charge of any defective item(s) or where in the opinion of the company repair or replacement is impracticable to the refund of any sum paid or payable under this contract and attributable to the defective item(s) or the sum of £10,000.00 whichever is the lesser. Any item or part replaced by the Company shall become the property of the Company. Subject only to sub-clause (3) of this clause the Company shall not be liable under this sub-clause for any consequential loss or damage, including loss of profits, contracts or use, howsoever arising.
- (3) The Company will indemnify the Customer against any personal injuries resulting from the negligence of the Company its servants or agents and against any direct damage to property insofar as such damage is caused by the negligence of the Company its servants or agents when on the Customer's premises in pursuance of this contract.
- (4) Subject only to sub-clause (3) of this clause the Company shall not be liable under this contract or otherwise where defects loss or damage arise due to improper use by the Customer or any third party or ordinary wear or force majeure. Where, in such circumstances, the Company agrees to remedy any defect, it may charge the Customer for the costs incurred.

J. LEGAL CONSTRUCTION

This contract shall be governed by English Law and shall be construed in all respects as an English contract.

K. HEALTH AND SAFETY AT WORK ETC ACT 1974

- (1) The Customer shall, if the Company so requires, sign a written undertaking, in such form as the Company shall require, agreeing to take such steps as are communicated in writing by the Company to Customer and such other necessary steps to ensure, so far as it reasonably practicable, that the goods will be safe and without risks to health when properly used.
- (2) The Customer shall disseminate, in such manner and to such people as the Company shall deem necessary, all information given to the Customer by the Company about the use for which the goods are designed and have been tested and about any conditions necessary to ensure that when put to that use the goods will be safe and without risks to health.
- (3) The Customer shall keep the Company indemnified from and against all costs, claims, demands, expenses and all liabilities whatsoever which may be made against the Company or which the Company may sustain, pay or incur arising out of or in connection with any breach by the Customer or Condition K (2).

L. BREACH AND CUSTOMER INSOLVENCY

If the Customer shall default in or commit any breach of any of its obligations to the Company (whether or not such obligations are or are expressed to be conditions or other terms) or if any distress or execution shall be levied upon the Customer or if the Customer shall enter into any negotiations for arrangement or composition with its creditors or commit any act of bankruptcy or if any petition in bankruptcy shall be presented against him or her or if the Customer is a corporate body any resolution is proposed or petition presented to wind up the Customer or if a receiver of the Customer's assets or undertaking or any part thereof shall be appointed or if the Customer shall be deemed to be unable to pay its debts the Company shall be entitled to determine forthwith any contract then subsisting without prejudice to any other clarification the Company might make or exercise.

M. GUARANTEE

Without prejudice to Condition 12, the Company guarantees that it will at its option, replace faulty goods supplied by the Company or repair the same or refund all or any part of the purchase price thereof, subject to the Customer being in strict compliance with the manufacturer's instructions and the claim being made in writing to the Company within 12 months after the sale or such other period as may have been dictated by the Company, time to be of the essence. It is the responsibility of the Customer to register any equipment installed by The Company with the Manufacturer for warranty purposes. The Company's obligations to refund, repair or replace the Goods is the sole liability of the Company as regards the quality fitness or description of the Goods and their correspondence with sample or specification. All other representations warranties conditions terms and statements express or implied are excluded. Responsibility for ensuring the Goods comply with the laws of any Country outside the UK rests with the Customer. The Company shall not be liable for any direct or indirect loss or damage to property or persons howsoever arising from the sale, use or installation of the goods or from any defect in the goods or for any work carried out otherwise than provided by the law. The Company's liability shall be limited to the cost of the goods sold or of the work carried out. In no event shall any failure of any kind on the part of the Company give rise to any liability for loss of revenue or any consequential loss or damage arising from any reason whatsoever.

N. DISPUTES

Any invoice queries or disputes need to be advised within 14 days from receipt of invoice. The parties will attempt in good faith to resolve any dispute or claim relating to this contract failing which they will attempt to resolve the dispute through an alternative dispute resolution procedure as recommended by the Centre for Dispute Resolution. If the parties fail to resolve the dispute after 3 months then the dispute will be referred to arbitration to be carried out by a single arbitrator agreed by the parties or recommended by the President of the Chartered Institute of Arbitrators according to the provisions of the Arbitration Act 1996 and the decision of the arbitrator shall be final and binding on the parties.

O. THIRD PARTY RIGHTS

The Company and the Customer agree that these terms and conditions shall not be deemed to grant rights to any person who is not a party to this Contract.

Applicable to Service Contracts only:-

P. EQUIPMENT

- (1) The equipment the subject of the Service Contract will at all times be operated only in accordance with the manufacturer's instructions. Such equipment will be serviced and maintained only by the Company or its agents.
- (2) Any defects or faults in the equipment must be notified to the Company as soon as the Customer becomes aware of such defects or faults.
- (3) Cover is provided under the Service Contract, between 9:00am and 5:00pm, Monday to Friday, excluding Public Holidays, unless otherwise agreed in writing by the Company.

Q. INSTALLATION

If installation services are purchased from the Company the following conditions will apply:

- (1) The Company will supervise the installation of the equipment at the site in accordance with the Design.
- (2) The Company reserves the right, at its absolute discretion, to use sub-contractors to perform any part of the installation as it deems appropriate.
- (3) The Company will not be responsible for any delays in the installation of the equipment which are outside the control of the Company, however caused. In the event of such delays the Customer shall be liable for any costs arising from the delay and shall pay to the Company such costs by the completion.
- (4) All variations and changes to the Design and any extras shall be agreed in writing in advance between the Company and the Customer and shall be charged by the Company as extras to the price.
- (5) On completion of the installation to the reasonable satisfaction of the Customer the parties shall each certify in writing that the equipment has been installed and commissioned.

R. EXCLUSIONS

The Company shall not be liable for:-

- (1) Loss, destruction or damage
 - (a) due to any wilful act or neglect
 - (b) due to disregard or manufacturer's instructions
 - (c) arising from gradual deterioration, rust or corrosion
 - (d) caused by dismantling, transit or re-installation
 - (e) due to accident or other external causes including but not limited to fire, flood, lightning, theft, explosion and water damage



- (f) due to the application of an incorrect or abnormal electrical supply, defects in external wiring or in the electrical connection not forming part of the Goods
- (g) to appliance accessories
- (h) due to non-payment of any account for power supply
- (i) due to internal corrosion of water systems and lack of water treatment protection
- (j) due to R22 refrigerant gas replacement
- (k) due to the failure of the Customer to notify any faults during the period of the service contract.

(2) The cost of:-

- (a) cleaning or unblocking of any part or parts of the Goods including but not limited to anodes
- (b) any failure, loss or damage arising from exclusions in clause R (1)
- (c) materials and labour charges for which the manufacturer, supplier, repairer or any other person may be held responsible under the terms of any express guarantee or warranty
- (d) repair or replacement parts necessitated by manufacturer's defects which involve recall, replacement or repair by the manufacturer
- (e) repairs to interior and exterior paintwork due to but not limited to corrosion, scratching, denting or the direct application of a tool
- (f) replacement of or adjustment to light bulbs, light covers, hinges, lids, doors, liners, seals, locks, handles, knobs, buttons, plastic or metal trim badges or any other insignia or attachments external to the Goods
- (g) any claim or claims occurring within three consecutive months of an earlier submitted claim relating to the same Goods where the cause of the subsequent claim or claims is common to each of the occurrences
- (h) consequential loss including loss of stock is excluded and any cost resulting from maintenance or servicing.

S. TERMINATION

The Contract may be terminated by either party giving not less than three months written notice to expire on the contract anniversary date.

U. ISO 9001 AND ISO 14001 CERTIFICATION COMPLIANCE OF SUPPLIERS PRODUCTS, SERVICES AND SUPPORTING RECORDS

Processes, products and services to be provided shall be compliant with the requirements defined below.

The approval, verification, validation of products, services etc., shall be proportionate to the product / service provided and may include any of the following, as applicable: Visual check, functional verification, inspection and test, checking and retention of certificates, copies of competency records, including the qualifications of Engineers and other personnel, other methods as appropriate to the product or service supplied. Equipment used for the foregoing shall be dependent on the product / service being provided.

The Company expects any suppliers of products, materials services etc., to be competent and qualified in the activity that they are engaged for and, where deemed appropriate to the product and/or service provided shall require and request evidence of the competence and qualifications of the supplier's operatives (Engineers etc.), providing the product and/or service. This shall be required prior to commencement of work.

The interaction with the supplier and their representatives shall be via email, telephone and other means as specifically agreed in relation to the product / service being provided.

Control and monitoring of the product / service provided shall, as far as is practicable, dependent on the specialisations required, be via inspection of the product / service by the Companies personnel who have the required competences to perform the verifications or, where necessary will be subcontracted to a third party.

Where the company, or our customer, requires to perform verification and or validation of the product, service or stages thereof at the supplier's premises this shall be by prior arrangement with the supplier.

The release of the product / service shall be via signoff by an appropriately competent member of the companies staff.

It is expected that all external providers comply with Modern Slavery Act 2015 & Human Rights Act 1998 and notify the company if they are in breach of this at any time.