

Conditions of Sale

1 GENERAL

- (a) In these conditions references to "the Company" are to R&S Robertson Ltd. and references to the "Purchaser" are to any person, firm or company with whom the Company enters into any contract, whether directly or indirectly. "Goods" shall mean the goods which are the subject of the contract. "Special Items" shall mean items supplied by the Company which are non-stock items. Words in the singular shall include the plural and vice versa. Reference to any gender shall include the others and reference to the legal persons.
- (b) All quotations are quotes and all orders are accepted on these conditions which supersede any other terms appearing elsewhere and exclude and override any other terms or representations stipulated or incorporated or referred to by the Company, whether in the order or in any negotiations and any course of dealing established between the Company and the Purchaser. These conditions shall apply to all contracts of the Company for the sale of Goods. Unless expressly agreed in writing and signed by a director of the Company, these conditions shall prevail over any inconsistent terms, communications or form of contract and in the event of a Purchaser's order containing or being subject to terms and conditions at variance with these conditions, these conditions shall prevail.
- (c) No waiver of these conditions shall be valid unless agreed in writing by a director of the Company. The failure of the Company to insist upon strict performance of any of the terms and conditions of the contract shall not be construed as a waiver of any such term or condition and shall in no way affect the Company's right to enforce such provision later. If any of these conditions of sale is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other conditions and the remainder of the condition in question shall not be affected.
- (d) Nothing in these conditions of sale shall affect the statutory rights of consumers.

2 VALIDITY OF QUOTATIONS

Unless stated to be open for a specific period and accepted within such period prior to being withdrawn, the prices, quantities and delivery times stated in any quotation are not binding on the Company. They are commercial estimates only which the Company will make reasonable efforts to achieve.

3 PRICES

- (a) otherwise agreed in writing the price for the Goods shall be set out as in the Company's price list in force at the time the Goods are despatched. Any increase in price between the date the Goods are ordered and the date they are despatched shall be for the account of the Purchaser. The amount of any such increase shall be notified to the Purchaser.
- (b) The price together with all other costs and charges are exclusive of any Value Added Tax, duties and levies which shall be payable by the Purchaser in addition to the price at the applicable rates except as set out in paragraph 6 below.
- (c) The Company reserves the right to make a handling charge on any orders, the total invoice price of which (excluding VAT) is less than the Company's small order value as notified to the Purchaser from time to time.

4 PAYMENT

- (a) If, and until such time as the Company has confirmed credit account facilities in writing, payment shall be due in full in sterling on or before delivery, without any set off, deduction or counterclaim.
- (b) The Company may at its sole discretion establish a credit account for the Purchaser (subject to receipt of references or such other conditions as the Company sees fit). The Company shall be entitled, at its sole discretion, to refuse to establish such an account without providing any reason. If such an account is established and remains in operation, payment is due in full in sterling 30 days from the date of the invoice.
- (c) The Company may, without prejudice to its other rights, charge interest on any overdue accounts at the rate of 4% over the base rate of HSBC Bank plc from time to time to be compounded monthly from the due date until payment in full is made both before and after judgment.
- (d) If any amount payable to the Company by the Purchaser on any account is left outstanding beyond the due date for payment, the Company may suspend performance of its obligations under any or all contracts with the Purchaser. If any outstanding amount is overdue the Company reserves the right, strictly at its own discretion, to treat any outstanding order as cancelled without incurring any costs or other liability as a result of such cancellation.
- (e) The Company shall have the right to invoice the Purchaser for a partial delivery of Goods.
- (f) The Company may request a sum to be paid by the Purchaser in advance. Any advance payment made by the Purchaser at the Company's request shall be held by the Company as deposit and not apart payment. In such circumstances the order will not be accepted nor the Goods despatched until the deposit is received. Any deposit is non-refundable in the event of cancellation of the contract by the Purchaser.

5 PROPERTY

- (a) Title to the Goods shall remain with the Company until such time as the Company has received all payments owing to the Company under the contract for their sale by the Purchaser and all payments owing to the Company by the Purchaser on any other account whatsoever have been paid in full. This shall not prevent the Company from suing for the price of the Goods.
- (b) While the Goods are the property of the Company, the Purchaser, as bailee, on behalf of the Company, shall keep them safe, insured and separate and identifiable from all other Goods in its possession and shall not charge, pledge or deal with them or allow any lien or other interest to arise over them.
- (c) If any amount owing by the Purchaser to the Company on any account is not paid or the Purchaser ceases or threatens to cease trading or is unable to pay its debts as they fall due, or has any receiver or liquidator appointed over any of its business or assets, or passes a resolution for winding-up, or is the subject of any application, petition or order for administration, winding-up, dissolution or bankruptcy, or enters into any composition or voluntary arrangement with its creditors or is subject to any similar event of insolvency in any other jurisdiction or if the Company reasonably suspects that the Purchaser is likely to be subject to any of the same the Company shall be entitled to the immediate return of the Goods which are the property of the Company and the Purchaser hereby irrevocably authorises the Company to recover the Goods and to enter any premises of the Purchaser for that purpose.

6 CARRIAGE

The price for the Goods is exclusive of delivery, insurance, packing and other services provided by the Company which shall be payable in addition to the price paid by the Purchaser unless otherwise agreed between the parties. The Company may charge the delivery costs of any Special Items to the account of the Purchaser.

7 LOSS OR DAMAGE IN TRANSIT

The Company shall not have any liability for short delivery, loss or damage to Goods occurring during delivery or for non-delivery unless claims to that effect are notified verbally to the Company within 3 days of delivery and confirmed in writing to the Company within 7 days from delivery (in the case of loss or damage or short delivery) or within 7 days of the Company's invoice or advice note (in the case of non-delivery).

8 DELIVERY

- (a) The Company shall use reasonable commercial endeavours to deliver the Goods in accordance with any despatch date notified to the Purchaser. Time of delivery shall not be of the essence and the Company shall not be liable for any business interruption, loss of production, loss of profits, contracts, goodwill or anticipated savings, loss arising from any third party claims or any special, indirect or consequential loss (whether or not foreseeable) howsoever suffered by the Purchaser as a result of any delay or non-delivery.
- (b) The Company reserves the right to deliver the Goods by instalments and to invoice for each instalment separately. Each delivery shall constitute a separate contract and any claim by the Purchaser relating to specific instalments shall not itself entitle the Purchaser to any remedy in respect of other instalments.
- (c) Where transportation is arranged by the Company, delivery shall take place when the Goods are unloaded at the location specified by the Purchaser. Otherwise delivery shall take place when the Purchaser or its carrier or agent collects the Goods from the Company's premises.
- (d) The Company shall be entitled to request that the Purchaser collects the Goods from the Company's premises on a date to be notified to the Purchaser.
- (e) If the Company, at the request of the Purchaser, stores the Goods or arranges for them to be despatched or dealt with otherwise than as stated above or if the Purchaser fails to collect the Goods on the date as notified by the Company, the Purchaser shall pay to the Company a reasonable charge (which shall include the cost of insurance) for such service. The Purchaser shall also pay to the Company any additional transportation costs and extra handling costs resulting from the Purchaser's failure to take delivery on the due date or collect the Goods on the specified date and the Company shall be entitled to charge the Purchaser any increase in the Company's list price of the Goods between the due date for despatch or collection and the date on which despatch or collection is actually affected.
- (f) Risk of loss or damage of any kind to the Goods (but not the title) shall pass to the Purchaser on delivery or, in the event that the Purchaser, its carrier or agent fail to collect the Goods, on the due date for collection.
- (g) Goods delivered in accordance with a contract may not be returned without the Company's express written agreement and subject to the Purchaser reimbursing all the Company's costs relating to the sale contract.
- (h) The Company reserves the right to impose a financial penalty at its sole discretion due to delays with Purchaser's Goods-in procedure.

9 EXPORT

- (a) This condition applies where Goods are supplied for export from the United Kingdom.
- (b) Unless expressly stated in the Company's acknowledgement of the Purchaser's order, prices are ex-works. Transportation and the preparation of all export documentation may be arranged by the Company at the Purchaser's request, in which case extra charges for such services shall be payable by the Purchaser.
- (c) The Purchaser is responsible for complying with all laws and regulations governing the import of the Goods into any country and for ensuring that the Goods comply with all laws, regulations and

licensing requirements of any country to which they are exported. The Purchaser shall indemnify the Company against the consequences of any breach of those laws, regulations and licensing requirements.

- (d) Section 32(3) of the Sale of Goods Act 1979 shall not apply. Where Goods are handed to a carrier or United Kingdom port for export to the Buyer, that carrier or port shall be treated as an agent of the Company for the purposes of section 44, 46 and 48 of the Sale of Goods Act 1979.

10 WARRANTY AND EXCLUSION

- (a) The Company will use its reasonable endeavours to assign the benefit of any warranty it receives from its supplier to the Purchaser.
- (b) The Company warrants, subject to clause 10(d) below, and the Purchaser verbally notifying the Company within 3 days of delivery and confirming in writing within 7 days of delivery of any defects in the Goods the Company shall, at its option, replace the Goods or refund to the Purchaser the price of such Goods that are shown to the Company's satisfaction to be defective in materials, design or workmanship. This warranty is subject to the Goods being properly stored by the Purchaser and being available for inspection by the Company for a period of 21 days from the date of the notice of such defects.
- (c) Failure to make such a claim within the period specified in clause 9(b) above shall constitute unqualified acceptance of the Goods and waiver by the Purchaser of all claims relating to the Goods.
- (d) The Company shall not be liable for any business interruption, loss of production, loss of profits, contracts, goodwill or anticipated savings, loss arising from any third party claims or any special, indirect or consequential loss (whether or not foreseeable) in respect of non-delivery, delay in delivery or of defects in the nature of or the quality of any Goods supplied by the Company nor shall the Company indemnify the Purchaser against any such claims except as required by law and may not be excluded.
- (e) Nothing in these conditions shall exclude or limit the liability of the Company for death or personal injury resulting from its negligence insofar as the same is prohibited by United Kingdom statute.
- (f) Save as expressly provided in these conditions all terms, conditions, representations and warranties (whether expressed or implied) relating to the sale of goods are excluded to the fullest extent permitted by law. The Goods are not sold by description or sample.
- (g) Without prejudice to the generality of the foregoing nothing herein contained shall operate to exclude or restrict liability for breach of any obligation arising from section 13, 4 or 1501 of the Sale of Goods Act 1979 as against a Purchaser dealing as a "Consumer" as defined by section 12 of the Unfair Contract Terms Act 1977.
- (h) Subject to any of the limitations or exclusions of liability in these conditions, the maximum aggregate liability of the Company, its employees and agents, for breach of any contract and otherwise in connection with that contract (including for any breach of any statutory duty and any tortious act or omission, including negligence) shall so far as permitted by law be limited to the amount payable for the Goods under the terms of the contract.

11 LIGHTING DESIGN SERVICES

- (a) The Company may, at the request of the Purchaser, agree to supply the services of a lighting design engineer ("Lighting Design Services") to develop a lighting scheme ("the Lighting Scheme") for which there may be an additional charge. The Company is under no obligation to supply Lighting Design Services.
- (b) The Purchaser shall permit the Company access to its premises and the Purchaser shall provide such other assistance as may be necessary to enable the Company to provide Lighting Design Services. Any drawings, plans, reports, specifications or other material arising from the development of the Lighting Scheme shall remain the absolute property of the Company.
- (c) If within 1 month of the Lighting Scheme being installed the Purchaser considers the Lighting Scheme to be deficient in some respect, the Purchaser shall notify the Company in writing, detailing the ways in which the Lighting Scheme is deficient. If the Company receives no such notification the Purchaser within the time period specified above, the Company may be entitled to assume that the Lighting Scheme meets with the Purchaser's requirements.
- (d) The Company, on receipt of the notification set out in Clause 10 (c), shall be permitted access to the Purchaser's premises for the purposes of remedying the defect. The Company shall be under no obligation to remedy defects in the lighting system which arise from its reliance on information, specifications or data supplied by the Purchaser.
- (e) The Company shall not be liable for any business interruption, loss of profits, contracts, goodwill or anticipated savings, loss arising from any third party claims or an special indirect or consequential loss (whether or not foreseeable) to the Purchaser which may arise as a result of the Lighting Scheme failing to meet the Purchaser's requirements or for problems arising or which may arise as a result of incorrect installation of the Goods by or on behalf of the Purchaser or arising or which may arise as a result of the Purchaser failing to use the Goods as specifically recommended by the Purchaser for the purposes of the Lighting Scheme. Save as expressly provided in these conditions all terms, conditions, representations and warranties (whether express or implied) relating to the sale of goods and/or the supply of services are excluded to the fullest extent permitted by law.

12 CANCELLATION

There can be no cancellation of an order by the Purchaser without the Company's written consent. On cancellation of an order or in the event of other default by the Purchaser, a cancellation charge will be made equal to 25% of the order value, or in the case of Goods manufactured specifically to the Purchaser's Order, the charge shall be the proportion of the price which represents the proportion of the Goods which have been completed, which ever is the higher. The Purchaser will indemnify the Company in respect of any third party claims arising out of the Purchaser's repudiation or suspension or cancellation of any order or orders.

13 DESCRIPTIVE MATTER AND ILLUSTRATIONS

- (a) All descriptive and forwarding specifications, drawings and particulars of weights and dimensions issued by the Company are approximate only and are intended only to present a general idea of the Goods described therein and nothing contained in any of them shall form part of any contract with the Company.
- (b) The Company reserves the right to vary the technique, design, construction and specification of Goods without notice. Such changes may result in a slight variations in details from the description or illustrations in Company literature which shall not entitle the Purchaser to rescind the contract.

14 INTELLECTUAL PROPERTY

The Company reserves all intellectual property rights in the Goods and any tools used to produce them, including but not limited to copyright, patents, registered and unregistered trademarks and confidential know-how. The Purchaser may not use any such rights without the Company's written consent and nothing in this or any other contract between the parties shall operate as a transfer of or a licence to use any intellectual property rights in respect of the Goods.

15 USE AND DISCLOSURE OF PERSONAL DATA

By entering into this contract the Purchaser consents to the processing by or on behalf of the Company of personal data as defined by the Data Protection Act 1996 (the "DPA") (supplied by the Purchaser to or held by the Company (the "Personal Data") for the purposes of administering the Purchaser's account and any related orders, including but not limited to undertaking credit assessment with appropriate third parties, obtaining references, and marketing. Unless otherwise specifically indicated the Purchaser consents to the use of such Personal Data for direct marketing purposes or disclosure by the Company to third parties of such Personal Data for marketing purposes. The Purchaser's statutory rights under the DPA are unaffected.

16 FORCE MAJEURE

The Company shall not be liable for any failure or delay in the performance of its obligations where the same is due to any circumstances outside its reasonable control including (without limiting the foregoing) war, strikes, lock-outs, industrial action, shortage or supplies, breakdown, transport delays, accidents, government action, fire, terrorism or criminal acts.

17 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

For the purposes of section 1(2) of the Contracts (Rights of Third Parties) Act 1999 the parties state that they do not intend any term of this agreement to be enforced by third parties.

18 NOTICES

Any notices to be served under these conditions must be in writing and delivered personally, sent by first class prepaid post or sent by facsimile transmission, in the case of the Company to its registered office and in the case of the Purchaser to the address in its order or otherwise notified in writing to the Company. Notices will be treated as served when delivered (if delivered personally) two days after posting (if posted as aforesaid) and one day after transmission (if sent by facsimile transmission).

19 REPRESENTATION

No employee of the Company, other than a Director, is authorised to make any statement, warranty or representation as to the Goods. The Purchaser therefore shall not be entitled to rely or seek to rely upon any statement made by an employee, or agent other than a written statement of a Director of the Company.

20 GOVERNING LAW AND JURISDICTION

Any contract between the Company and the Purchaser shall be governed and construed in accordance with English law. The Purchaser submits to the exclusive jurisdiction of the English Courts but the Company may enforce any such contract in any court of competent jurisdiction.

Effective October 2003