

GENERAL TERMS & CONDITIONS OF SALE

1. DEFINITIONS: In these Conditions "Holmbury" shall mean Holmbury Limited. "the Customer" shall mean the person or persons or firm or company to whom any quotation is addressed or with whom any contract is made and "the Goods" shall mean the goods or any part thereof, agreed to be sold as described on the face hereof, and any repaired, replaced or spare part. "the Delivery Date" shall mean the date notified to the Customer by Holmbury under Clause 4 (c) hereof.

2. CONTRACT: (a) All quotations given and all contracts made by Holmbury are subject to these terms, conditions and exceptions contained herein, and all conditions and exceptions referred to by the Customer or contained in any order, acceptance of estimate or quotation, or otherwise brought to Holmbury's notice are hereby excluded.

(b) Quotations issued by Holmbury are not offers capable of acceptance so as to make a binding contract. All orders placed with Holmbury require its acceptance before any contract arises. Any delivery period shall run from the date of such acceptance.

(c) No servant or agent of Holmbury has any authority to make any representation, or to give any warranty relating to the Goods or to agree to any variation of, or addition to these conditions, unless such representation, warranty, variation or addition is expressed in writing and signed on behalf of Holmbury by a Director and is incorporated or referred to in Holmbury's quotation or acceptance of order.

(d) These conditions, together with any special terms and conditions specified on the quotation or acceptance of order issued by Holmbury and any drawings plans or other documents referred to therein, shall on acceptance by Holmbury of the Customer's order constitute the entire agreement between Holmbury and the Customer to the exclusion of any antecedent or contemporaneous written or oral understandings, agreements or representations in respect of the supply of the Goods.

3. PRICES AND PAYMENT: (a) All prices quoted in the contract are f.o.b. the port of shipment selected by Holmbury or ex Holmbury's warehouse or otherwise as may be specified in Holmbury's quotation or acceptance of order and are those prevailing at the time of the contract, but the prices ruling at the date of delivery shall apply and shall be paid by the Customer.

(b) Holmbury may add to the prices quoted in the contract a sum sufficient to compensate Holmbury for any increase in the cost to Holmbury of producing the Goods occurring after the date of the quotation (including, but not limited to increases in the costs of labour, raw materials, bought in parts, transport and overheads) and to preserve Holmbury's profit margin.

(c) If work is suspended or slowed down because of the Customer's instructions, lack of instructions or failure to supply specifications or parts, additional charges may be made.

(d) Unless the prices quoted in the contract are expressly shown to include Value Added Tax, all prices are subject to the addition of such Tax (where applicable).

(e) Unless otherwise agreed in writing with the Customer or stated on the face hereof the price of the Goods shall be paid to Holmbury in full in cash not later than the tenth day of the month following the date of Holmbury's invoice in respect of the Goods. Interest shall be due and payable to Holmbury for late payment at the rate of 6% per annum from the due date of payment of Holmbury's invoice (as well as before any judgement) until payment is actually received by Holmbury.

(f) All amounts due to Holmbury in respect of the supply of the Goods shall be paid at the offices of Holmbury at Tower House, Vale Rise, Tonbridge, Kent TN9 1TB

(g) If where the price payable in respect of the Goods is due otherwise than in advance of or on delivery of the Goods, in the reasonable opinion of Holmbury the credit rating of the Customer becomes unsatisfactory prior to delivery, or if the Customer fails to perform or observe any obligations on his part to be performed or observed under this or any other contract made with Holmbury, Holmbury shall be entitled at its discretion to delay delivery of the Goods until payment therefore is rendered by the Customer or until such obligations are duly performed or observed or by notice in writing to the Customer unilaterally to cancel the contract for the supply of Goods.

4. DELIVERY AND RISKS: (a) Delivery is to take place f.o.b. the port of shipment selected by Holmbury or ex Holmbury's warehouse as may be specified in Holmbury's quotation or acceptance of order, unless otherwise specified by Holmbury, and the risks of damage to or destruction of the Goods shall thereupon pass to the Customer. Where delivery is delayed due to any act of the Customer for whatever reason, such risk shall pass on the date on which delivery would have taken place for such act.

(b) Any delivery date or delivery period, whether stated in the contract or otherwise notified to the Customer is an estimate only and Holmbury shall not be liable for any loss or damage whatsoever caused by the failure to make delivery on such date or within such period.

5. PROPERTY: (a) Although risk in Goods shall pass to the Customer, as provided in Clause 4 above, property in the Goods shall not then pass to the Customer but shall remain in Holmbury until the Customer has paid to Holmbury all sums owing or due to Holmbury on any account whatsoever and has duly performed or observed all obligations of whatsoever kind on his part to be performed or observed under this or any other contract made with Holmbury provided that always that the Customer shall indemnify Holmbury against all claims, demands, damages, penalties, costs, expenses or liabilities arising out of or in connection with Holmbury's continued ownership of the Goods.

(b) Whilst the Goods remain the property of Holmbury, Holmbury may retake possession of them at any time without notice to the Customer and for this purpose Holmbury may be its servants or agents enter upon any land or premises where it believes the Goods may be.

(c) The Customer may sell the Goods and deliver them to the purchaser thereof provided that the Customer does so in the ordinary course of its business. Notwithstanding any agreement or provision for the granting of credit by Holmbury to the Customer, the Customer shall account to Holmbury for the proceeds of such sale, and pending such accounting shall hold such proceeds of sale as fiduciary for Holmbury. If Holmbury so requires, the Customer will assign any debt due from such purchaser to Holmbury.

(d) The provision of Clause 5(a), (b) and (c) above shall continue to apply to the Goods notwithstanding any admixture with other Goods or other use or transformation of the Goods by any process of manufacture.

6. STORAGE: Holmbury shall be entitled to store the Goods, either at their own premises or elsewhere at the Customer's expense in the following circumstances:

(a) if the Goods are delivered f.o.b or ex Holmbury's warehouse, where the Customer fails to take delivery on the due date: or

(b) if the Goods are delivered by the Customer to a specified place:

(i) where Holmbury is ready to despatch the Goods, but needs delivery instructions and such instructions have not been provided by the Customer; or

(ii) where Holmbury is ready to despatch the Goods and the Customer is or will be unable to accept delivery when tendered.

7. ALTERATIONS AND IMPROVEMENTS: (a) Holmbury or its sub-contractors may carry out without notice to the Customer alterations or improvements in design, materials, or methods of manufacture from time to time, and may substitute other reasonably similar parts for any proprietary or special part ordered by the Customer, which Holmbury or its sub-contractors considers to be unprocureable, or unprocureable in sufficient quantities or unprocureable in sufficient time or procurable with difficulty or at an excessive cost.

(b) Further Holmbury may supersede, materially alter or abandon the design or type of the Goods contracted for, and may substitute another design or type. In exercising this right, Holmbury shall give written notice to the Customer and the Customer may within 14 days after such notice is given, terminate the contract by giving notice to Holmbury. If the contract is so terminated, the deposit, if any, shall be returned to the Customer, but no other claim for loss or damage may be made.

(c) If, in the opinion of Holmbury, there is no design or type which could reasonably be substituted under sub-clause (b) of this clause Holmbury's obligation to complete performance or the contract shall be suspended until such time as a substitute therefore can be found and becomes available.

8. LIABILITY FOR DEFECTS: (a) If any defect is discovered in the Goods within twelve months of their delivery or the date up to which delivery could have been made to the customer, and is shown to be due solely to defective materials or workmanship or to the failure of the Goods to perform in accordance with any plans or specifications referred to in Holmbury's quotation or acceptance of order (subject to customarily accepted

tolerance) then Holmbury will at its own option, either repair or replace the defective part or parts of the Goods (or will allow the Customer credit for the price paid in respect of the Goods), and Holmbury will make no charge for any such repair or replacement. These conditions shall apply to repaired or replaced parts.

(b) The undertaking given in sub-clause (a) of this clause is subject to the provisions of Clause 9 and 10 below and to the following conditions:

(i) That the Customer shall return the defective part or parts of the Goods to Holmbury's works (or to such other place as Holmbury may specify,) as soon as after discovery of the defect as is reasonably practicable, and in any event not later than 28 days after discovery of the defect;

(ii) that the cost of transporting the defective part or parts of the Goods to and from Holmbury's works shall be paid by the Customer;

(iii) that the Customer shall give written notice to Holmbury specifying the nature of the defects in the part or parts of the Goods so returned;

(iv) that the Goods had been used and maintained properly and carefully and in accordance with any instruction issued by Holmbury.

(c) The undertaking contained in sub-clause (a) does not apply to goods or any part of goods not manufactured by Holmbury. In the case of such goods, Holmbury will use its best endeavours to pass on to the Customer the benefit of any guarantee, condition, warranty or servicing arrangement received by Holmbury from the manufacturer of such goods, but Holmbury shall be under no liability whatsoever, for any defect in such goods.

(d) In the case of a part or parts being replaced under the provisions of this clause, the original of such part or parts shall become the property of Holmbury without payment.

(e) Save as above provided, Holmbury shall be under no liability by reason of the manufacture, sale or delivery of any goods which do not comply with or have not been made to comply with, the specification or description applicable to this contract, and the Customer accepts Holmbury's obligation above in lieu of any remedy or right he might otherwise have in respect of such delivery, notwithstanding that failure to provide goods which comply with the contract, or which have been made so to comply, be due to negligence on the part of Holmbury, its servants, agent, sub-contractors or others.

9. EXCLUSIONS: (a) subject to clause 8 hereof, all conditions and warranties in respect of the Goods relating to quality, fitness for purpose, merchantability or otherwise, whether implied by statute or by common law or otherwise, are hereby excluded.

(b) Without prejudice to the generality of the foregoing, any warranty or condition as to performance or suitability for any particular purpose of the Goods, and in particular any warrant or condition that the specification design or other details of the Goods will meet any particular requirement of any national or local authority or regulations or bye-laws affecting the same, except as agreed in writing with the customer, in respect of any such requirements regulations or bye-laws notified to Holmbury by the Customer on or before the making of the contract is hereby excluded.

10. PRODUCT LIABILITY AND CONSEQUENTIAL LOSS: (a) The Customers will, on or before delivery of the Goods as herein provided, if so requested by Holmbury, enter into a written undertaking to take such steps as may be specified to the Customer by Holmbury, and set out in such undertaking relating to the safe and proper use of the Goods, without risk to health. The Customer shall indemnify Holmbury in respect of any liability, monetary penalty, or fine in respect of, or in connection with, the Goods incurred by Holmbury under the Health and Safety at Work Act 1974 or any statutory modification or re-enactment thereof or any regulations orders or directions made thereunder.

(b) In no circumstances, whatsoever shall Holmbury be liable in contract or tort or otherwise for any consequential or indirect damage or loss, howsoever caused.

11. DAMAGES: In the event, Holmbury's liability to the customer in respect of the consequences of any breach or non-performance of this contract, however caused or arising, shall be limited to the price of the goods.

12. DRAWINGS, DESCRIPTION, ETC: All drawings, photographs, illustrations, specifications, performance data, dimensions, weights and all the like, whether contained in the contract or made by way of representation, have been provided by Holmbury in the belief that they are as accurate as reasonably possible, but they do not constitute a description of the Goods, shall not be taken to be representations made by Holmbury, and are not warranted to be accurate.

13. TERMINATION OF THE CONTRACT: (a) Without prejudice to any other rights which Holmbury may have, Holmbury shall be entitled, on giving written notice to the Customer, to determine any contract for which demand immediate payment of any amount due or accruing due to Holmbury thereunder, and to retain any deposits if any of the following circumstances occur:

(i) The Customer, not being a body corporate, becomes bankrupt or compounds or makes any arrangements with his creditors or commits any act of bankruptcy;

(ii) The Customer, being a body corporate goes into liquidation whether compulsory or voluntary (save for the purpose of reconstruction or amalgamation) or has a receiver appointed, of its undertaking or assets or any part thereof.

(b) On termination of the contract by Holmbury under sub-clause (a) of this clause, Holmbury shall have a general lien over all materials and property belonging to the Customer, which are in the possession of Holmbury for any sum due under, or in connection with, this contract or any other contract. Holmbury shall be entitled to sell such materials or property and to re-sell the Goods.

14. FORCE MAJEURE: In the event of any delay affecting the performance of this contract by reason of any cause arising from, or attributable to acts, events, the non-occurrence of events, omissions or other accidents or matters beyond the reasonable control of Holmbury, including but not limited to the following matters, whether affecting Holmbury's own operation or those of any supplier, sub-contractor or transport contractor:-

(i) strikes, lockouts or any other labour disputes (regardless of the reasonableness of the demands of labour or management's or shortage of labour);

(ii) civil commotion, riots, invasion, war or warlike state (whether war be declared or not) or the breaking off of diplomatic relations or sabotage;

(iii) fire, explosion, storm, flood, earthquake, fog, subsidence, epidemics.

(iv) voluntary or mandatory compliance with any directions or order of any person having or appearing to have authority of the Government, whether local or national, for defence or other statutory or national purposes;

(v) inability, difficulty or delay in obtaining, or shortages of suitable raw materials, equipment, fuel, power, components or transportation. Holmbury shall be under no liability for loss or injury suffered by the Customer thereby, and the contract shall be suspended during such delay, upon the cessation of the cause of the delay, the contract shall again become operative, provided that, if as a result of such delay, a modification of the terms of the contract or cancellation thereof is requested by one party, and it is reasonable that such modification or cancellation should be made, the contract shall be so modified or cancelled, and in the case of cancellation a proper proportion of the price shall be paid for any expenditure incurred by Holmbury or any benefit conferred upon the Customer.

15. INDUSTRIAL PROPERTY: The Customer shall indemnify Holmbury from all claims, demands, damage, penalties, costs, expenses or liability in respect of the infringement of any letters patent, registered design, design copyright, copyright or other industrial property right or breach of confidence (not being a breach by Holmbury), resulting from or arising in the performance of this contract or of any contract in accordance with the terms of this contract. Holmbury does not warrant that the supply or use of the Goods in the United Kingdom or elsewhere is not an infringement of the rights of third parties in industrial property.

16. MISCELLANEOUS: If any of these conditions, or any part of one of these Conditions is rendered void by any legislation to which it is subject, it shall be void to the extent and no further. If any of these Conditions or any part of one of these Conditions is rendered unenforceable by any legislation to which it is subject, it shall be enforceable to the extent that it is not a fair or reasonable one to be included but no further.

17. LEGAL CONSTRUCTION: Unless otherwise agreed in writing, this contract shall in all respects be construed and governed by the Law of England, and the Customer submits to the jurisdiction of the Courts of England.