

# CONDITIONS OF SALE

## 1. Definitions

In the context of these conditions the work 'Company or Seller' will be construed as meaning **Stormont Design Ltd, trading as SieMatic Chichester**. The 'Customer or buyer' will be the person entering into this contract with the Company and named as such on the Confirmation of Contract of which these conditions form part and who is named as such therein; the word 'goods' shall mean the articles or things manufactured or supplied by the Company and the word 'services' means the work described in the confirmation of contract.

## 2. Acceptance, Variation and Scope

- (a) A contract will not come into effect between the Company and the customer until the customer's order has been accepted by the Company in writing. Any such contract will be subject to these conditions and any attempt by the customer to incorporate other terms and conditions shall be null and void and of no legal effect.
- (b) No variation of the conditions shall be effective unless made in writing and signed by a Director of the Company. Any variation made in this way shall be effective as shall a variation contained in the confirmation issued by the Company of acceptance by it of the customer order.

## 3. Terms of Payment

- (a) The 'amount due upon receipt of invoice' is normally payable 7 days prior to the anticipated delivery/commencement of installation date. Cleared funds must be in place prior to delivery or within 7 days of the Company notifying the customer the goods are available for delivery.
- (b) Terms of payment shall be as agreed between the Company and the customer and shall be stated in the confirmation/quotation issued by the Company and accepted by the customer as a signed order.
- (c) If the customer fails to pay any amount on the due date the outstanding sum shall carry interest at the annual rate of 3% above the London Inter-Bank Overnight Rate from time to time calculated on daily basis until payment.
- (d) If it is agreed that the contract price shall be payable by instalments, in the event of a failure by the customer to pay any instalment on the due date the whole of the balance of the price shall become due and payable forthwith and the provisions of sub-Clause (b) of this clause shall apply.
- (e) In the case of death, permanent incapacity, bankruptcy, or insolvency of the customer or when the customer is a limited company, in the case of a liquidation or the appointment of a receiver. The whole of the balance of the price shall become due and payable forthwith and provisions of sub-clause (b) of this clause shall apply.
- (f) On the happening of any of the events specified in sub-clause (b) (c) or (d) above the Company (in addition and without prejudice to its other rights referred to in this clause) will have the right to cancel every contract made with the customer and /or suspend or continue delivery of goods and materials at the Company's option (even if goods are to be supplied under R.I.B.A. or other similar contract terms) without prejudice to the Company's rights to recover damages for any loss sustained by it.
- (g) If the Company or its sub-contractors shall cause any damage to goods during the installation or if there are any missing or defective parts, the Company will carry the cost and replace any parts accordingly being dependant on lead times by the relevant manufacturers.

## 4. Price

The Company reserves the right to vary the contract price (whether in respect of sale and/or installation) at any time to take account of:

- (a) Any increase in the cost price to the Company of the goods and services taking effect before despatch by the Company.
- (b) Any alteration made in the specifications upon which the contract is based.
- (c) Any costs for waiting time or other expenses incurred by the Company as a result of matters beyond its control.
- (d) Special deliveries or part deliveries or any other variation of the original order made at the request of the customer unless otherwise agreed by a Director of the Company.
- (e) Any additional work which the Company could not reasonably foresee at the date hereof and which is not included in the order. The Company's decision as to whether any such work was not reasonably foreseeable shall be absolute.
- (f) Any extra cost borne by the Company as a result of any Government legislation, EEC regulations or the effects of devaluation, of the pound or fluctuation in the currency exchange rate.
- (g) If a Special Trigger Event occurs, Stormont Design Ltd, trading as SieMatic Chichester, may:
  - (i) renegotiate, in good faith, an amendment to this agreement to alleviate the Special Trigger Event; and
  - (ii) if no such amendment is made to this agreement within 30 days, terminate this agreement by giving the other party not less than 30 days' and not more than 60 days' written notice.
- (h) Special Trigger Event means any of the following events occurring at any time:
  - (i) a substantial adverse impact on a party's ability to perform the agreement in accordance with its terms and the law.
  - (ii) a substantial increase in the costs incurred by a party in performing the agreement since the price for the Products was last agreed.
  - (iii) the price of the Products under this agreement is substantially lower than the market value for similar products to third parties.

## 5. Title

The property in goods supplied by the Company shall not pass to the customer until the full amount payable in respect thereof has been paid and such retention of title shall be no ground for the customer to fail to complete the purchase. At any time after default by the customer in paying for the goods supplied on a demand by the Company and goods for which the Company has not received payment in full shall be returned to the Company. The customer hereby gives licence to the Company and/or its suppliers to enter on any premises of the customer for the purpose of removing any such goods in any such event.

## 6. Representations

- (a) The employees of the Company are not authorised to make oral representations as to the description, quality or fitness for any particular purpose of the goods. If a representation is made or an opinion expressed orally which materially affects the customer's decision to purchase, the customer should ensure that such details be confirmed in writing by the Director of the Company so as to form a part of the contract. No liability can otherwise be accepted.

- (b) All descriptions and other information contained in sales literature, advertisements and estimates are based on information received from the Company's suppliers and the Company cannot be held responsible for any inaccuracies in their information passed on in good faith.

## 7. Designs etc...

- (a) Designs, illustrations, drawings and the like, whether contained in the Company's specification or otherwise must be regarded as approximate representations only. The customer's attention is drawn to the Company's drawings and specifications. The customer must satisfy him/herself/itself that the goods are fit for the customer's purpose.
- (b) Where the Company has undertaken to offer a design service the drawings shall remain the property of the Company until a 'contract for sale is made between the Company and the customer.

## 8. Availability, delivery and storage

- (a) Acceptance and completion of order is subject to the goods which have been ordered being available and the Company shall be under no liability to delay for non-performance caused either by the goods not being available or by any other circumstances beyond the Company's control.
- (b) Time of delivery of the goods is not to be of the essence of the contract except as mentioned in the next sub-clause. Any date for delivery given by the Company is the best estimate that can be made, and the Company shall not be liable for any loss or damage (whether direct or consequential) caused by delivery being after any quoted date.
- (c) All goods are sold on the understanding that delivery is accepted by the customer within 14 days after their being notified that they have arrived at the Company's premises/warehouse. Thereafter a weekly storage charge will be levied at the Company's rates current from time to time unless otherwise put in writing by a Director of the Company.

## 9. Access

The customer agrees to provide unimpeded access for the employees and vehicles of the Company. Its sub-contractors and carriers on or into the customer's property for the purpose of delivering goods to the customer or for any related purpose.

## 10. Risk

- (a) The Company will not be responsible for any damage caused to goods after delivery to the relevant premises, and the customer will be responsible for examining goods on delivery and any defects therein must be notified on the delivery note or noted on the completion note if installation is carried out by the Company.
- (b) The customer must sign the completion note and mark any missing or defective parts thereon. If the customer fails to do so it will be assumed the work is to the customer's satisfaction.

## 11. General Liabilities

Irrespective of any insurance taken out by the Company the customer should advise his/her/itself insures that works are being carried out on the customer's property and satisfy himself/herself/itself that there is adequate cover against loss or damage by fire and other risks arising out of or during the delivery of goods or the progress of work undertaken by the Company and any associated sub-contractors whether the customer be the freeholder, lessee or the mortgagee of the property. Unless otherwise expressly agreed, the Company is not liable for any loss or damage whatsoever to the works, materials on site. If the customer wishes the Company to take out insurance to cover goods whilst on site during the course of installation, against fire and theft, the customer must inform us prior to commencement of any work on site. (There will be a nominal charge for such cover).

## 12. Faulty Goods and Defects

- (a) If the customer 'deals as consumer' (as defined by section 12 of the Unfair Contract Terms Act 1977) he is entitled to a number of non-excludable rights under the sale of goods act 1979. Nothing in this clause is intended to restrict or exclude those rights in any way.
- (b) The Company will only supply and use materials and goods within the scope of the published specification form the relevant manufacturer or suppliers, but the goods are supplied subject to any conditions of sale relating thereto by the relevant manufacturer or supplier. In the event of any materials or goods being faulty the Company own financial liability in respect to such faults will be limited to such amount (if any) as it may be able to recover from the manufacturer or supplier. However, in the event of any item of goods supplied proving defective in materials or workmanship the Company will (at its option) repair or replace such items free of charge, provide that a complaint is made by the customer within a reasonable time after delivery and provided also that, where the goods have been used or fixed, the defect is not such that examination by the customer out to have revealed it before using or fixing.
- (c) Upon delivery, any damages/breakages must be reported to the company within 48 hours. In the case of goods consigned by rail or through road hauliers' breakages or shortages must be notified by the customer to the relevant carrier.

## 13. The Right to Sub-Contract.

The Company shall be entitled to sub-contact the performance of the whole or part of the contract with the customer without prior notice to the customer.

## 14. Instalment Deliveries

Where goods contacted for are deliverable by instalments each delivery shall be deemed to be the subject of a separate enforceable contract.

## 15. VAT

Should at any time, the law change in relation to VAT or in the event of H.M Customs and Excise ruling that VAT is chargeable on items the customer has Zero rated on the order. The Company reserve the right to collect the tax due from the customer at any subsequent date.

## 16. By-Laws and Regulations

It is the customer's responsibility to ensure and satisfy himself/herself/itself that the goods to be supplied comply with all relevant local by-laws and/or regulations. The Company cannot accept any responsibility or liability relating to or arising from any failure to such compliance.

## 17. Proper Law

All contracts between the Company and the customer shall be construed in all respects in accordance with the laws of England.