

Environmental Treatment Concepts Ltd - Terms And Conditions Of Trading

In these conditions the following expressions bear the following meanings unless the context otherwise permits:

"The Company" means Environmental Treatment Concepts Limited (Company No. 2999601)

"The Buyer" means the company firm or individual to whom the quotation or order is addressed

"The Supply" means the supply of services or goods described in the quotation or order

Words importing the singular number only shall include the plural and vice versa.

1. Incorporation of Conditions

These conditions shall apply to all orders placed with the Company unless otherwise agreed in writing. Any conditions contained in a Buyer's order form which conflict with any of these conditions shall be deemed to be inapplicable unless otherwise agreed in writing.

2. Terms of Payment

- (a) The Company's terms of payment are strictly cash or other payment acceptable to the Company within 30 days of delivery of the Supply unless the Company otherwise agrees
- (b) A claim or counterclaim shall not justify the Buyer withholding payment
- (c) The Company shall be entitled to interest on invoice sums outstanding for more than 30 days from the date of invoice at the rate of 2% per month from the date of invoice to the date of payment
- (d) Unless otherwise specified, prices quoted are ex-works, exclude the cost of carriage and are exclusive of VAT at the appropriate rate.

3. Fluctuations

Where the cost to the Company of undertaking the Supply has increased for whatever reason since the date of quotation for the Supply (or in the absence of a quotation since the date when the price for the Supply was agreed) the Company shall be entitled after notice in writing to the Buyer to increase its price to cover the increase in cost in particular (without limiting the foregoing)

- (a) If the Buyer shall require special testing facilities in the presence of the Company or its representatives or on the Buyer's premises any additional expense shall be borne by the Buyer
- (b) as the Company's business includes the supply of goods and materials from outside the United Kingdom increases in cost due to devaluation of currencies will be passed on to the Buyer.
- (c) in the event of the Buyer cancelling a part of the order the Company reserve the right to revise the prices quoted for goods already delivered

4. Company's Rights

The Company shall be entitled:

- (a) to refuse or delay the Supply where the Buyer's credit or conduct of his account is unsatisfactory
- (b) to employ the services of any sub-contractor for the purpose of undertaking the Supply
- (c) assign the benefit of any order with the Buyer to any agent or sub-contract
- (d) (prior to a contract being made) to withdraw or cancel the quotation at any time without liability.

5. Buyer to Observe Legal Requirements

The Buyer shall observe and perform all statutes, orders, regulations, bye-laws and all other lawful requirements of government or any local or other authority imposed upon the Buyer in relation to the Supply.

6. Drawings And Literature And Representations

- (a) In entering into a contract with the Company the Buyer acknowledges that the contract has not been induced by an representations orally or in writing made by the Company, its employees or agents.
- (b) Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.
- (c) Whilst all descriptions and illustrations of the goods in catalogues, brochures and price lists provided by the Company have been carefully prepared, they are intended nevertheless for general guidance only and do not form part of any contract for sale of goods and no responsibility is accepted for any errors or omissions therein or for any loss or damage resulting from reliance on such descriptions and illustrations.
- (d) The property and copyright in all inventions, designs, drawings, specifications, processes, documents, drawings, plans, photographs, illustrations prepared and other printed matter and submitted to the Buyer or evolved during or as a result of work carried out during the Supply will remain with the Company. The Buyer will not communicate any part of them to any third party without the Company's written consent. The Company does not accept liability for any errors or omissions and reserves the right to change drawings and/or specifications without notice.

7. Where The Supply Includes The Delivery of Goods to The Buyer

- (a) Legal and beneficial ownership of the goods shall remain in the Company until payment has been made in full and in the meantime the Buyer shall hold such goods in a fiduciary relationship as bailee of the Company
- (b) Until ownership in the goods has passed to the Buyer
 - (i) The Company may at any time require the Buyer to return the goods to the Company and in default thereof the Company shall have an irrevocable licence to enter the Buyer's premises to recover the goods and sever the goods from anything to which they are attached without being responsible for any damage caused. Such return or recovery shall be without prejudice to the obligation of the Buyer to purchase the goods
 - (ii) The Buyer shall keep the goods safe and insured against usual commercial risks and free from charge lien or other encumbrance
- (c) If the Buyer shall fail to take delivery of the goods within 28 days of notification that the goods are ready for dispatch then the Company shall have the right to payment thereon notwithstanding the other rights herein conferred upon the Company
- (d) If the Buyer shall fail to give the Company instructions for delivery within 21 days of notification that the goods are ready for delivery, the Company may arrange to store the goods at the Buyer's expense
- (e) On delivery the Buyer shall examine the goods for defects and completeness. Thereafter no claim for damage in transit, for shortage in delivery or for loss of goods will be entertained unless, in the case of damage, a separate notice in writing is given to the carriers or to the Company within 3 days of the receipt of the goods, followed within 14 days of the date of advice of despatch by a complete claim in writing. A signature 'unexamined' shall be deemed to be an unconditional acceptance of the goods.

(f) Risk of damage to or loss of the goods shall pass to the Buyer at the time of delivery.

(g) Any recommendations and advice given by the Company or the manufacturer to the Buyer with regard to the goods supplied must be followed strictly

(h) The Company shall have the right to inspect the books of record or account of the Buyer in relation to the goods.

8. Limitations of Liability

While the Company makes reasonable endeavours to carry out its obligations, the Company shall not be liable in contract, tort or under any head of legal liability for any damages costs claims expense or interest arising out of the performance or alleged non-performance of any contract entered into by the Company and in particular (without limiting the foregoing) shall not save where otherwise required by law or ordered by the Court accept any liability for:-

- (a) loss of profits, goodwill or any type of special indirect consequential loss or damage of any kind (including loss of damage suffered by the Buyer as a result of an action brought by a third party) even if such loss was reasonably foreseeable or the Company had been advised of the possibility of the Buyer incurring the same
- (b) any loss or damage caused by the conduct or neglect of the Buyer
- (c) any act, neglect or default due directly or indirectly, wholly or partially to any act or thing outside the control of the Company
- (d) any inherent or latent defect in any goods or materials which the Company could not readily have discovered or rectified
- (e) loss or damage due to delay on the part of the Company, its employees or agents
- (f) statements or information supplied in specifications and drawings referred to in the quotation which shall be for guidance only
- (g) any claim for an amount in excess of the price of the Supply excluding VAT.

Save as aforesaid and save as required by law all conditions, warranties or other terms whether express of implied statutory or otherwise are hereby expressly excluded

Notwithstanding the foregoing the Company accepts liability in the following but no other circumstances:-

- (i) where the goods supplied are proved to the Company's satisfaction to be defective, solely due to faulty design, workmanship or materials provided that such defects arise within a period of 12 months from the date of supply or within such period during which the goods shall remain the property of the Buyer (whichever shall be the shorter) provided there is no neglect or fault on the part of the Buyer and that Condition 10 is complied with, the Company will replace or repair at its discretion any of the goods proved to be defective as aforesaid
- (ii) in the case of goods, parts or materials not manufactured by the Company the Company will replace or repair at its discretion any of the goods or parts of the goods proved to be defective after fair and proper use provided that the goods shall at the expense of the Buyer be brought back to the Company within 12 months of the date of supply but always provided that any repair replacement or maintenance after the 12 month period shall be chargeable by the Company.

9. Notification of Claims

The Company shall not accept any liability for any claim whatsoever unless within 14 days of the Supply or in the case of any defect not reasonably discoverable at the date of the Supply within 7 days after the date of discovery of the defect by the Buyer the Buyer gives to the Company notice in writing of the matter or thing in respect of which claim is made. If notice is not given as aforesaid the Buyer shall be deemed to have accepted the Supply and shall pay for the same accordingly.

10. Delivery

- (a) Any dates quoted for delivery of the Supply are approximate only and the Company shall not be liable for delay in delivery of the Supply. The time for delivery or the performance of the Supply by the Company shall not be of the essence.
- (b) The Company reserve the right to deliver goods by instalments and in such event each instalment shall be treated as a separate contract save that the delivery of further instalments may be withheld until goods contained in earlier instalments have been paid for in full.

11. Indemnity by Buyer

The Buyer shall be responsible for and shall indemnify the Company against all damages (including undue wear and tear to any goods, materials or equipment of the Company and including any claim for breach of trade mark, patent or registered design) costs, claims, demands and expense of whatever kind and under any and every head of legal liability whether for personal injuries damage to property or otherwise suffered by or made upon the Company by reason of any breach by the Buyer of these conditions or any act, default or omission arising out of the performance of any contract with the Buyer by the Company (other than the wilful act or default of the Company).

12. Access

The Buyer shall allow the Company including its employees agents and sub-contractors such reasonable access to the piece of Supply as it shall from time to time require to perform its obligations herein.

13. Consents

The Company shall not be responsible for the obtaining of any necessary consents for the installation of the goods, whether from local or other authorities or for ensuring that the installation of the goods is in accordance with the provisions of any bye-laws, regulations or statutes shall not be the responsibility of the Company.

14. Insolvency

The Company shall have the right to terminate any contract forthwith where the Buyer becomes insolvent or bankrupt or makes arrangements with its creditors or suffers a receiver to be appointed or being a body corporate enters into liquidation (other than in connection with a reconstruction or amalgamation) in any of which cases the Company shall have no further obligation and the price for all goods delivered and work done shall become immediately due and payable.

15. Law of Contract

The Law of England shall govern all contracts between the Company and the Buyer.

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