

## **Terms & Conditions of Business**

Secker & Sons (Norwich) Ltd

7 ST Johns Close

Norwich

Norfolk

NR1 2PR

The below is a typical Contract of Sale which will be offered for a standard installation.

**ACCEPTANCE OF ORDER.** Acceptance by SECKER & SONS (NORWICH) LTD. (hereinafter called 'the Company'), of any order placed by the customer, shall constitute a contract between the Company and the Customer upon and subject to the following terms and conditions as varied by such terms and conditions (if any) as may be expressly stated in the Company's quotation or acceptance of order, to the exclusion of any oral contract, promise or arrangement made by any employee of the Company and to the exclusion of all other warranties or conditions expressed or implied by law or otherwise. The company shall be deemed to have accepted an order upon the issue to the Customer of the Company's Acknowledgement and Acceptance in writing or upon delivery and/or installation of good and/or services in performance of the order whichever first shall happen and only upon receipt by the Company of any deposit requested by the Company.

**GUARANTEE.** In lieu of any warranty, condition or liability, implied by the law or otherwise the Company's liability in respect of any defect in or failure of goods supplied, or for any loss injury or damage attributable thereto, is limited to the terms and conditions of any Manufacture Guarantee, and shall be subject to acceptance of any claim by the manufacture involved. Specific exclusions are Cabinet parts, night blinds, lights, lamps, bulbs and damage caused by overstocking cases and shelves and failure to adhere to regular cleaning and maintenance of the equipment. Failure caused by condensate drainage problems, specifically blockage of drains caused through foreign substances, and incorrect cleaning and flushing of drains by the customer. Also failure of electrical power supply. Failure to comply with the manufacturer's requirement for the equipment to be serviced by an accredited service engineer.

**DRAWINGS AND SPECIFICATION.** Whilst all descriptions and illustrations of the company's products in its catalogues and price lists have been carefully prepared they are intended nevertheless for general guidance only and the Company does not accept any responsibility whatsoever for any errors or omissions therein or any loss or damage resulting from reliance on such descriptions and illustrations. As its policy is one of continuous improvements it further reserves the right to make from time to time whatsoever alterations, improvements or other variations to its products as it may see fit.

**MANUFACTURE OF GOODS.** Goods manufactured to the specification or design of the purchaser or his/her advisers carry no guarantee of any kind whatsoever, except compliance with the design or specification as supplied by the purchaser.

**DELIVERY PERIOD.** (i) Where the order requires delivery within a specified period of time, that time shall commence to run from date of the company's acceptance of the order. (ii) The company will use its best endeavours to complete the delivery and/or installation on/or installation on time but in the event of a delay will accept no responsibility whatsoever. (iii) For any incorrect deliveries, the Company's liability will only be to replace the wrong item or component within a reasonable time subject to the incorrect item or component being returned

to it in good condition. (iii) Any cancellation of order will be subject to 10% cancellation charge plus any carriage charges incurred.

**DEFECTIVE GOODS AND DELIVERY.** (i) The purchaser is under a duty to inspect the goods on delivery. No liability is accepted by the supplier from delay in delivery if the goods or services unless the supplier has expressly agreed to be bound by a delivery date in writing, which is of the essence of the contract. The supplier accepts no liability for any delays or non-delivery due directly or indirectly to strike, fire, act of state, force majeure or other Circumstances beyond their control. (ii) In the event of any dispute as to the quality of the goods supplied by the company the purchaser may not affix any item to any property without the written authority of the company and any items fitted without such authority will be deemed to be good quality and no liability whatsoever will be entertained for any claim that they were defective in any respect. (iii) No claims against the supplier whatsoever for non completion of the contract or dissatisfaction with the suppliers services will be accepted unless notified to the supplier in writing, by recorded delivery within 14 days of the completion of the contract.

**ACCESS TO SITE.** The cost of delivery and installation is included in the price Provided that - (i) A clear level site is available and ready for reception, erection and installation of the goods and equipment. (ii) The site has clear access for normal transport. (iii) Reasonable working space is available for the Company's or subcontractor's employees with full use of all necessary electrical, water and other services. (iv) All the work can be carried out within normal working hours: weekdays only between 08.30 and 17.30 hours. (v) Where lack of accessibility or site conditions require use of specialist services and/or equipment. The cost of these services and any extra labour or materials involved shall be paid by the Customer. (vi) The company shall not supply any labour or materials for any builder's work, plumbing, decorating, electrical wiring, woodworking, shopfitting, glazing or making good any brickwork, woodwork, tiling, pipework, etc. unless previously specified in writing and any of this work necessary for the delivery and/or the completion of the installation shall be at the sole expense and responsibility of the customer.

**SITE DELAYS.** If forwarding instructions are not received by the Company within seven days of notification that the goods are ready for despatch, the Customer shall take delivery or arrange storage at the Customer's own expense and shall be deemed to be responsible for the goods as provided by clause 8 and payment for the goods will become due as provided by clause 9.

**INVOICE PRICES.** Prices of components supplied to the Company by their Manufacturers are subject to change without notice and the Company reserves the right without prior notice to invoice and the Customer agrees to pay for all such goods at the prices prevailing at the time of delivery.

**RESPONSIBILITY FOR THE GOODS.** The goods, equipment, plant or apparatus, shall be at the risk and responsibility of the Customer for all purposes when the Company has completed delivery, erection and/or installation, whether or not it is put into use notwithstanding that additions, minor omissions, or defects not materially affecting the use of the goods, or other work not completed by the Company due to factors or conditions beyond its control remain to be carried out or corrected by the Company.

**RISK AND TITLE.** Subject to any special terms and conditions of payment in the Company's tender document:

(a) Risk in respect of loss or damage to the goods shall pass to the Customer when the goods are unloaded in the case of delivery to the Customer's premises prior to their installation. For the purposes of these conditions the phrase 'the goods' shall include equipment, plant or apparatus and shall hereinafter be referred to as 'the goods'.

(b) The ownership of the goods which shall include any part or parts of the goods (whether installed or not) which are finished or unfinished and/or ready for installation and/or are installed and which form part of a principal chattel in whatever proportion to form a new structure incorporating the goods, the goods will remain with the Company until the Customer has paid all liquidated sums owed by the Customer to the Company including any services supplied by the Company to the Customer under the terms of this Agreement.

(c) Until such time as title passes the Customer shall:

(i) Store the goods separately from any other goods on his premises.

(ii) Mark the goods clearly as belonging to the Company.

(iii) Not interfere with, deface or remove any labels, batch numbers or other identification marks on the goods.

(d) The Customer grants the Company, its servants and agents an irrevocable licence to enter any premises where the goods are, or believed to be, for the purposes of retaking possession of or otherwise disposing of the goods at any time before title has passed. The Customer shall where necessary obtain an irrevocable licence for the Company to enter premises not under the control of the Customer where the Company's goods are to be installed, delivered or stored.

(e) The Company grants the Customer a licence to use the goods or any part thereof (to include those goods referred to in clause (b) (above) in the course of their normal business operations.

(f) The Customer must ensure that if the goods are, or become, affixed to any land or building they shall be capable of being removed without material injury to such land or building and to take all necessary steps to prevent title to the goods from passing to the landlord of such land or building. The Customer warrants to repair and make good any damage caused by the affixation of the goods to, or to removal from, any land or buildings and to indemnify the Company against all loss, damage or liability it may incur or sustain as a result of such affixation or removal.

(g) Payment shall become due forthwith and the Customer's right to possession of the goods shall cease upon the occurrence of any of the events referred to in condition 13.

#### TERMS OF PAYMENT

(a) Interim invoices shall be submitted by the seller as work proceeds on contracts to the value of not exceeding 90% of the value of work in progress and materials delivered to site. Certificates to be honoured within 7 days unless by any other arrangement in writing and agreed between the seller and the buyer. Payment of final balance on any contract shall be due 30 days following invoice.

(b) On entering into this contract, the seller may demand payment in advance of 25%.

(c) Where Hire Purchase or Credit Sales facilities are required by the Customer the Contract will be subject to the acceptance of the Customer as a Hirer by any recognised Hire Purchases or Finance Company nominated by the Customer. In the absence of such acceptance, or the

Customer's refusal to agree to any terms or conditions involved, the Company reserves the right to cancel the order or contract.

THE SUPPLIER MAY:

(d) For any reason whatsoever Summarily terminate the Contract with respect to all or any of the good/services but without prejudice to any rights which may have accrued or which may accrue there after to the Supplier and/or

(e) Deduct the amount payable under the Contract from any sum then due or which may thereafter become due to the Purchaser under any other Contract with the supplier.

(f) Re-Impose any sum by way of discount or deduction from the retail price of the good/services shown on the delivery of the initial invoice for the goods and/or

(g) In the event of any Cheque/Standing Order or Direct Debit Instruction which is returned marked "Refer to drawer", "Represent" or unpaid in any manner whatsoever charge at the Supplier sole discretion the rate of 5% of the amount for which the payment was drawn or £100.00 whichever is the greater and/or

(h) Withdraw all future credit facilities that may have been extended to the purchaser and/or

(i) Charge to the Purchaser all and any cost whatsoever, incurred by the supplier for the recovery of such sums as are due and the enforcement of the contract. Including any third party collection agency fee's and exercise the right to enforce the Late Payment Commercial Debts (Interest) Act

(j) Charge the purchaser 10% per annum over the current base-lending rate at the time governed by the rate charged by the National Westminster Bank Plc, or charge the purchaser Interest pursuant to the Late Payments Commercial Debts (Interest) Act.

(k) Confer the rights of this contract to any third party collection agency who may subsequently enforce any part of this contract.

(l) We will make a search with a credit reference agency, which will keep a record of that search and will share that information with other business. We may also make enquires about the principal directors with a credit reference agency.

(m) The Parties have read and agree to these terms and conditions and further hereby agree that all terms and conditions contained herein are reasonable and enforceable.

(n) In the event that the purchaser fails to make any payment due under an agreed schedule of payment for any reason whatsoever, the purchaser will be held to be in breach of this contract and all and any sums due under the contract will become payable immediately upon demand.

(o) If payment of the goods/services is overdue in full or in part or if the Purchaser enters into Receivership or any composition with his or its creditors the Supplier shall have the right to possess the goods and in furtherance whereof the purchaser hereby agrees irrevocably to grant permission to the supplier or its duly appointed representative to enter upon the Purchases premises and remove the goods.

FORCE MAJEURE.

Performance of contracts, deliveries and/or installations, may be suspended in the event of any strike, lockout, trade dispute, fire, tempest, breakdown, accident, riot, theft, crime, civil disturbance, war, force majeure or other occurrence preventing or retarding the execution of any Contract and no responsibility shall attach to the Company for any default, delay, loss or damage due to any of the above causes or to any other causes beyond its control.

**LIABILITY.** The Company accepts no responsibility whatsoever for any consequential loss or damage arising from any faulty working or operation of the goods supplied for any reason whatsoever. The Purchaser unconditionally indemnifies the company against all and any action at law whatsoever and in particular stock losses which we respectfully suggest that insurance over should be taken out by the customer.

**CHANGES OF LEGAL STATUS.** The goods and or services offered by the supplier to the purchaser will be supplied only to the named entity on this account application form. Any change in the legal status of the applicant requires a new credit account application to be completed and accepted by the supplier before goods or services will be supplied to the new entity

**DIRECTORS PERSONAL GUARANTEE.** The overleaf signatory, being a Director of the Purchaser limited Company, unconditionally agrees to stand guarantor for any sums due by the purchaser limited company and that in being such guarantor will pay by the purchaser with out exception and upon demand by the supplier in the event that the purchaser fails to pay any sums due, when they are due, or enters into liquidation/Administration or any financial composition whatsoever.

**GENERAL** The terms of this contract will be governed solely by English Law and the Jurisdiction of the English Courts.