

DOCK EQUIPMENT & INDUSTRIAL DOORS

STANDARD TERMS AND CONDITIONS OF SALE

1. GENERAL

The following terms are the standard Terms of Contract of Easilift Loading Systems Limited (company number 1258026) ("the Company") and are incorporated in all contracts and any person firm or company ("the Customer") seeking to be supplied with goods or services (and references to "goods" in these terms and conditions shall be deemed, where the context admits, to include any services provided by the Company to the Customer) by the Company accepts these terms alone shall govern any contract for the provision of such goods or services ("the Contract") unless a written variation has been signed in accordance with the provisions of clause 7 hereby and they shall apply to all additions and modifications to any Contract.

2. REFUSAL OF ORDER

- a) The Company reserves the right at its sole discretion to accept or refuse any order placed by the Customer on the basis of quotations issued and in that event the Company shall be under no liability whatsoever to the Customer.
- b) No quotation provided by the Company shall be capable of acceptance by the Customer and no order made by the Customer shall be deemed to be accepted by the Company unless (in either case) the Company has so confirmed in writing.

3. PRICE

- a) Save as set out herein the price for the goods and/or services to be provided by the Company ("the Price") shall be the price contained in the Company's quotation.
- b) All Prices quoted are valid for 30 days only or until earlier acceptance by the Customer.
- c) The Company reserves the right by giving notice to the Customer before delivery to increase the Price to reflect any increase in the cost to the Company which is due to any factor beyond the Company's control.
- d) The Price is exclusive of any applicable Value Added Tax which the Customer shall be additionally liable to pay.
- e) Where the Price includes installation, it is based upon free and uninterrupted access to and possession of fully prepared working areas being made available to the Company during normal working hours. In the event that such access and possession are not made available, or that the working areas are not duly prepared to the Company's requirements for the immediate installation of the goods, without prejudice to any other right the Company may have the Company shall at its sole discretion be entitled to vary the Price accordingly.

4. PAYMENTS

- a) Unless otherwise agreed in writing by the Company the Company shall be entitled to invoice the Customer on or at any time after delivery of the goods or (if appropriate) the commencement of the provision of any services; if the Customers wrongfully fails to take delivery the Company shall be entitled to invoice the Customer at any time after the Company has tendered delivery.
- b) Payment shall be made within 28 days of receipt of the Company's invoice or invoices without discount or other deduction and the Company shall be entitled to recover the Price although delivery has not taken place and the property in the goods has not passed to the Customer. Time for payment of the Price shall be of the essence of the contract. Should the Customer default in payment for whatever reason on the due date of any sum without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:-
 - i) cancel the contract or suspend any further deliveries;
 - ii) appropriate any payment made by the Customer to such of the goods as the Company may decide;
 - iii) charge the Customer interest both before and after judgment on the amount unpaid at the rate of 8% above the Bank of England minimum lending rate until payment in full is made.

5. TIME FOR DELIVERY

- a) Any dates stated or agreed by the Company for delivery, despatch or completion either in its quotation or by any other means are not of the essence either as to supply or as to installation. Such dates are approximate only and if the delivery, despatch or completion is not made for any reason whatsoever at the rate so stated the Company shall not be liable for any loss or damage whatsoever sustained by the Customer by reason thereof.
- b) In the event that the Customer does not take delivery of the goods forthwith upon being notified by the Company that manufacture has been completed, the Company shall be entitled to charge and recover reasonable storage rates which shall be added to the price stated in the Company's quotation and shall be paid in accordance with Clause 4 of these terms.

6. DELIVERY AND RISK

- a) Unless otherwise stated in the Company's quotation the cost of delivery from the Company's works to the place for delivery stated in such quotation is included in the price but it shall be the responsibility of the Customer entirely at his own cost and at his own risk to unload. Where the price includes installation, it shall further be the responsibility of the Customers at his own cost to provide adequate dry and secure storage of the goods pending and during such installation. All risks in the goods shall pass to the Customer upon completion of unloading, at which time a delivery note will usually be handed to the Customer or his representative or left with the goods. The Company's liability to the Customer for missing or damaged goods shall be limited to any sums recoverable under a policy of insurance in respect of such risks which may at the Company's discretion be maintained by the Company. If no such sums are recoverable or if no such policy is maintained, there shall be no liability whatsoever on the Company in respect of such goods.
- b) In any event, and without prejudice to the foregoing, any claims relating to missing or damaged goods which ought to be revealed by a reasonably diligent examination, shall be notified in writing by the Company and to any carrier involved within 3 days of the receipt of any goods or part thereof by the Customer his servants or agents, and in default of such notification any such claim shall be absolutely barred.

7. VARIATION OF TERMS

No variation of these terms or of any quotation or of any Contract shall be valid unless agreed to in writing and signed by a Director of the Company.

8. SCAFFOLDING

Scaffolding and ladders will be supplied by the Company without any extra charge to the Customer unless otherwise stated but will remain the property of the Company and must be delivered up to the Company in good condition and repair on demand.

9. PROPERTY

- a) Property in and title to the goods shall not pass to the Customer until the same have been paid for, and all other sums owed by the Customer to the Company (howsoever arising) shall be paid in full or in the case of the Company accepting tender of a cheque bill of exchange or promissory note, until the same has been honoured.
- b) Until the property in and title to the goods passes to the Customer, the Customer shall hold them as the Company's fiduciary agent and bailee and shall account to the Company for any proceeds of sale or otherwise of the goods (including, but not limited to insurance proceeds) and shall keep such proceeds separate from its own money.
- c) Until property in and title to the goods passes to the Customer, the Company shall be entitled to enter into the premises of the Customer to repossess the goods or demand the immediate return of the goods to it.

10. QUALITY AND CONDITION OF GOODS

- a) Subject to the conditions set out below the Company warrants that the goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of (12) months from the (date of their initial use or (12) months from) delivery (whichever is the first to expire) after which the Company shall be under no further liability in respect of the goods or any work carried out.
- b) The above warranty is subject to the following conditions:-
 - i) The Company shall be under no liability in respect of any defect in the goods arising from any drawing, design or specification supplied by the Customer or any one on its behalf which shall be (for the avoidance of doubt) the sole responsibility of the Customer.
 - ii) The Company shall be under no liability in respect of any defect arising for fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions whether oral or in writing, misuse or alteration or repair of goods without the Company's prior written approval.



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iii) DOCK EQUIPMENT & INDUSTRIAL DOORS

- The Company shall be under no liability under the above warranty condition or guarantee if the total price for the goods has not been paid by the due date for payment.
- iv) The Company shall be under no liability of any defect in the quality or condition of goods, their failure to correspond with the specification or upon the installation of the goods unless such defect, failure or malfunction shall be notified to the Company in writing by the Customer within 7 days of the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within 14 days of becoming aware of the defect or malfunction and in any event within 12 months of the date of delivery.

- c) The above warranty does not extend to parts materials or equipment not manufactured by the Company in respect of which the Customer shall only be entitled to benefit of such warranty or guarantee as is given by the manufacture to the Company.
- d) Subject as is expressly provided in these conditions and except where the goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms implied by statute or common law are excluded.

11. LIABILITY

- a) Any liability the Company may be under pursuant to the above warranty shall be limited to the repair or replacement of goods, parts or materials which the Company is liable to replace by reason of defects in materials or workmanship and shall be limited to a total cost not exceeding the total price paid for the goods.
- b) Without prejudice to the foregoing, if called upon to do so by the Customer in writing, the Company shall use reasonable endeavours to assign to the Customer the benefit of any warranty guarantee indemnity claim privilege or other right which the Company may have in regard to the manufacturers of suppliers of any goods, parts or materials not manufactured by the Company and relating to the quality or condition of such goods, parts or materials.
- c) The Customer shall indemnify the Company against all actions, claims or demands by any third parties relating to any claim for injury or damage to any person, property or interest and arising from the installation, use, functioning, or condition of the goods or in connection with any work carried out thereto by the Company its servants or agents and against any costs or expenses relating thereto.
- d) Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer by reason of any representation, implied warranty, condition or other term or any duty at common law or under the express terms of the contract for any consequential loss or damage (whether loss of profit or otherwise), costs, expenses, or other claims for consequential compensation whatsoever and how so ever caused which arise out of or in connection with the supply of the goods of their installation, use or condition or in connection with anything done or omitted to be done by the Company or its servants or agents and against any costs or expenses except as expressly provided herein.
- e) Where goods are sold under a consumer transaction as defined by the Consumer Transactions (Restriction On Statements Order 1976) the statutory rights of the Customer are not affected by these conditions.

12. IMPOSSIBILITY OF PERFORMANCE

The Company shall be entitled by written notice to the Customer to cancel any Contract should the Company be hindered or prevented by any cause beyond its reasonable control from performing the same, including a cause which renders performance commercially difficult or expensive.

13. INSOLVENCY OF CUSTOMER

- a) The Customer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a Company) goes into liquidation; or
- b) An encumbrancer takes possession, or receiver is appointed, of any of the property or assets of the Customer; or
- c) The Customer ceases, or threatens to cease, to carry on business; or
- d) The Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

Then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the Customer, and if the Goods have been delivered but not paid for the Price (and all other amounts owing to the Company by the Customer howsoever arising) shall become immediately due and payable notwithstanding any previous agreement or arrangement or the contrary.

14. RISK

The goods shall be at the Customer's risk as from delivery.

15. FRESH INSTRUCTIONS

The Customer may, prior to despatch of the goods or any part thereof from the Company but in good time to enable the Company to withhold such despatch, give notice in writing to the Company requesting that the goods shall be altered to meet the Customer's requirements or that other or new arrangements be made as to the place of delivery of the goods. The Company shall use reasonable endeavours to comply with any such reasonable request, provided always that in complying with any such request the Company shall be entitled to vary times and to vary the price accordingly, as well as to impose such other conditions as the Company at its sole discretion may reasonably require.

16. RESALE

Since the goods are manufactured to fulfil the Customer's particular requirement, in the event that the Customer does not fulfil his obligations hereunder, the Company may be unable to re-sell the goods or any part thereof at better than scrap value and for the purpose of calculating the Company's damages, the Company shall owe no duty to seek to re-sell the same at better than scrap value by way of mitigation of damage.

17. TERMINATION

The Company may without incurring further liability terminate the Contract by written notice, if in its reasonable opinion the Purchaser is unable to make payment in accordance with the terms hereof. Without prejudice to any other right which the Company may have, upon such termination, the Company shall be entitled to receive payment on a quantum meruit basis in respect of work completed or in progress at the date of termination.

18. INTELLECTUAL PROPERTY

- a) Any specifications or designs prepared by the Company or on its behalf (including the copyright, design right or other intellectual property in them) shall at all times remain the property of the Company. Where any designs or specifications have been supplied by the Customer for manufacture by the Company to the Customer's order then the Customer warrants that the use of those designs or specifications for the manufacture, processing, assembly and supply of the goods will not infringe the rights of any third party.
- b) All specifications, photographs, illustrations and other material produced by the Company in the manufacture and/or supply of the goods and all references to weights, measurements and other technical details contained in such materials are all provided for identification purposes only and are intended to be approximate. The Company shall not be liable for any loss suffered by the Customer as a result of its reliance on such materials or details.



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