

1 Interpretation

1.1 Definitions:

“Business Day” means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

“Conditions” means the terms and conditions set out in this document as amended from time to time in accordance with clause 15.4.

“Contract” means the contract between the Customer and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.

“Customer” means Lyte Ladders and Towers Limited (registered in England and Wales with company number 11776103).

“Customer Materials” has the meaning set out in clause 8.

“Delivery Date” means the date specified in the Order, or, if none is specified, within [7] days of the date of the Order.

“Delivery Location” means the address for delivery of Goods as set out in the Order.

“Goods” means the goods (or any part of them) set out in the Order.

“Mandatory Policies” means the Customer’s business policies made available at www.lyteladders.co.uk, as amended by the Customer from time to time.

“Order” means the Customer’s order for the Goods, as set out in the Customer’s purchase order form.

“Specification” means any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.

“Supplier” means the person or firm from whom the Customer purchases the Goods.

1.2 Interpretation:

- 1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2 A reference to a party includes its personal representatives, successors and permitted assigns.
- 1.2.3 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- 1.2.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.2.5 A reference to **writing** or **written** includes emails.

2 Basis of Contract

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 Each Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions.
- 2.3 Each Order shall be deemed to be accepted on the earlier of:
 - 2.3.1 the Supplier issuing a written acceptance of the Order; and
 - 2.3.2 the Supplier doing any act consistent with fulfilling the Order,at which point the Contract shall come into existence.
- 2.4 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

3 The Goods

3.1 The Supplier shall ensure that the Goods:

- 3.1.1 correspond with their description and any applicable Specification;
- 3.1.2 are of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
- 3.1.3 are free from defects in design, material and workmanship at the time of delivery and shall remain so for 24 months after delivery; and
- 3.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods and such standards, which may include British Industry Standards, as specified by the Customer from time to time.

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.

3.3 The Customer is entitled to inspect and test the Goods at any time before delivery and also upon their arrival at the Customer's premises. The Supplier will permit the Customer, its personnel and/or any third party representative of the Customer, to enter the Supplier's premises to carry out such inspection and testing. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

3.4 If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and, at the Customer's discretion, the Supplier shall immediately take such remedial action as is necessary to ensure compliance or the Customer may exercise any of its rights pursuant to Condition 5.1 below.

3.5 The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4 Delivery

4.1 The Supplier shall ensure that:

- 4.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
- 4.1.2 the Goods are marked in accordance with the Customer's instructions, any applicable laws and any applicable requirements of any carrier.
- 4.1.3 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any).

4.2 The Supplier shall deliver the Goods:

- 4.2.1 on the Delivery Date;
- 4.2.2 at the Delivery Location; and
- 4.2.3 during the Customer's normal business hours, or as instructed by the Customer.

4.3 Time of delivery of the Goods is of the essence.

4.4 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.

4.5 If the Supplier:

- 4.5.1 delivers less than 95% of the quantity of Goods ordered, the Customer is entitled to reject the Goods; or
- 4.5.2 delivers more than 105% of the quantity of Goods ordered, the Customer may at its discretion reject the Goods or the excess Goods and any rejected Goods shall be returnable at the Supplier's risk and expense.

4.6 If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

4.7 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle the Customer to the remedies set out in clause 5.

4.8 The Customer shall not be deemed to have accepted the Goods until they have been inspected following delivery.

5 Customer Remedies

5.1 If the Goods are not delivered on the Delivery Date, or do not comply with the undertakings set out in clause 3.1, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, the Customer may exercise any one or more of the following rights and remedies:

5.1.1 to terminate the Contract;

5.1.2 to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;

5.1.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

5.1.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

5.1.5 to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods from a third party; and

5.1.6 to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

5.2 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

5.3 The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

6 Title and Risk

- 6.1 Title and risk in the Goods shall pass to the Customer on completion of delivery in accordance with clause 4.

7 Price and Payment

- 7.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.

- 7.2 The price of the Goods:

7.2.1 excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice;

7.2.2 includes the costs of packaging, insurance and carriage of the Goods to the Delivery Location; and

7.2.3 .shall be paid in pound sterling.

- 7.3 No extra charges shall be effective unless agreed in writing with the Customer.

- 7.4 The Supplier will invoice the Customer for price of the Goods in pound sterling plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery in accordance with clause 4. The Supplier shall ensure that the invoice includes the date of the Order, the invoice number, the Customer's purchase order number, the Supplier's VAT registration number and any supporting documents that the Customer may reasonably require. The invoice must be sent by email to the email address specified in the Order unless otherwise agreed with the Customer.

- 7.5 The Customer shall pay correctly rendered invoices within 60 days of the end of the month in which the invoice is rendered. Payment shall be made to the bank account nominated in writing by the Supplier.

- 7.6 If the Customer disputes any invoice or other statement of monies due, the Customer shall as soon as reasonably practicable notify the Supplier in writing. The parties shall negotiate in

good faith to attempt to resolve the dispute promptly. The Supplier shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date as set out in clause 7.5. The Supplier's obligations to supply the Products shall not be affected by any payment dispute and accordingly, the Supplier shall not be entitled to withhold supplies as a result of any disputed invoice.

- 7.7 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from 5 Business Days after the dispute is resolved until payment.
- 7.8 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise.

8 Customer Materials

- 8.1 The Supplier acknowledges that all materials, drawings, Specifications, and data supplied by the Customer to the Supplier (**Customer Materials**) and all rights in the Customer Materials are and shall remain the exclusive property of the Customer. The Supplier shall keep the Customer Materials in safe custody at its own risk, maintain them in good condition until returned to the Customer and not dispose or use the same other than in accordance with the Customer's written instructions or authorisation.

9 Indemnity and Liability

- 9.1 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit,

loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with:

- 9.1.1 any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the manufacture, supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
 - 9.1.2 any claim made against the Customer by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
 - 9.1.3 any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and
 - 9.1.4 any failure to comply with the Mandatory Policies.
- 9.2 The Supplier acknowledges that the Customer shall not be liable for any of the following losses suffered by the Supplier (or any member of the Supplier's Group):
- 9.2.1 Loss of profits.
 - 9.2.2 Loss of sale or business.
 - 9.2.3 Loss of agreements or contracts.
 - 9.2.4 Loss of anticipated savings.
 - 9.2.5 Loss of use or corruption of software, data or information.
 - 9.2.6 Loss of or damage to goodwill.
 - 9.2.7 Indirect or consequential loss or liquidated damages.

9.3 This clause 9 shall survive termination of the Contract.

10 Insurance

10.1 During the term of the Contract and for a period of 24 months thereafter, the Supplier shall maintain in force, with a reputable insurance company, product liability insurance and such other insurance as is reasonably necessary to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

11 Confidentiality

11.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.2.

11.2 Each party may disclose the other party's confidential information:

11.2.1 to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 11; and

11.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.]

12 Compliance with Relevant Laws and Policies

12.1 In performing its obligations under the Contract, the Supplier shall:

12.1.1 comply with all applicable laws, statutes, regulations from time to time in force;
and

12.1.2 comply with the Mandatory Policies.

13 Termination

13.1 The Customer may terminate the Contract in whole or in part at any time before delivery of the Goods with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

13.2 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:

13.2.1 the Supplier commits any breach of clause 12.1;

13.2.2 the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;

13.2.3 the Supplier repeatedly breaches any of these Conditions in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these Conditions;

13.2.4 the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;

13.2.5 the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

13.2.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of the Supplier other than for the sole

purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of the Supplier;

- 13.2.7 an application is made to court, or an order is made, for the appointment of an administrator or a notice of intention to appoint an administrator is given or an administrator is appointed over the Supplier;
 - 13.2.8 the holder of a qualifying floating charge over the assets of the Supplier has become entitled to appoint or has appointed an administrative receiver;
 - 13.2.9 a person becomes entitled to appoint a receiver over all or any of the assets of the Supplier or a receiver is appointed over all or any of the assets of the Supplier;
 - 13.2.10 a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 13.2.11 any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2.4 to clause 13.2.10 (inclusive);
 - 13.2.12 the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 13.2.13 the Supplier's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy.
- 13.3 On termination or expiry of the Contract, the Supplier shall immediately return all Customer Materials to the Customer. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered to the Customer, the Supplier shall be solely responsible for their safe keeping and will ensure that they are not used for any purpose not connected with the Contract.
- 13.4 Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

- 13.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

14 Force majeure

- 14.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation: acts of God, flood, drought, earthquake or other natural disaster; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; and any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition; collapse of buildings, fire, explosion or accident.
- 14.2 Provided it has complied with Condition 14.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 14.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- 14.4 The Affected Party shall:
- 14.4.1 as soon as reasonably practicable after the start of the Force Majeure Event but no later than 7 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
 - 14.4.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations including by implementing its business continuity and disaster recovery plan.
- 14.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 4 weeks, the party not affected by the Force

Majeure Event may terminate this agreement by giving 2 weeks' written notice to the Affected Party.

15 General

15.1 Assignment and other dealings

15.1.1 The Customer may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

15.1.2 The Supplier may not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Customer.

15.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

15.3 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

15.4 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.

15.5 **Waiver.** Except as set out in clause 2.4, no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.6 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision of the Contract is deemed deleted

under this clause 15.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.7 Notices.

15.7.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (ii) sent by email to the email address specified in the Order.

15.7.2 Any notice shall be deemed to have been received:

- (i) if delivered by hand, at the time the notice is left at the proper address;
- (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (iii) if sent by pre-paid airmail providing proof of delivery, at 9.00am on the fifth Business Day after posting; or
- (iv) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 15.7.2(iv), business hours means 9.00am to 5.00pm Monday to Friday on a Business Day.

15.7.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15.8 Third party rights.

15.8.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

15.8.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

15.9 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England.

15.10 **Jurisdiction.**

15.10.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation in any dispute or claim brought against the Customer

15.10.2 Each party irrevocably agrees that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation in any dispute or claim brought against the Supplier.