

MARTIN WILLIAMS (HULL) LTD

TERMS & CONDITIONS OF SALE: BUILD DIVISION

**1. Definition**

“The Company” - MARTIN WILLIAMS (HULL) LTD.

“The Purchaser” - Any legal entity or person placing an order for, or receiving, Goods or Services supplied by the Company.

“Goods” - Any build, conversion, spare part or sundry item in which the company trades.

“Services” - Work on equipment not owned by the Company carried out at the Purchaser’s request.

**2. Delivery**

All orders for Goods and Services are accepted by the Company in good faith but the Company cannot guarantee delivery or completion by a specific date and shall not be liable for any loss or damage which may result from that specified date not being met.

**3. Price**

Except for any Goods that are available from the Company’s stock at the time of order the Company reserves the right to charge the price ruling at the time of delivery. All prices are subject to Value Added Tax where appropriate.

**4. Payment**

When the Purchaser places an order with the Company, terms of payment may be agreed in writing by the Company which are specific to that order. In the absence of specific payment terms invoices are due to be paid within 30 days following the date of invoice. Accounts not paid by the due date will be liable to an interest charge of LIBOR + 5% per month. If the Purchaser should be in default of payment due to the Company, the Company shall have the right to suspend deliveries of Goods and Services. The Purchaser will remain liable for payment for all Goods delivered or Services performed for him up to that time, whether invoiced or not.

**5. Title**

Goods will remain in the ownership of the Company until full payment has been received from the Purchaser or his agent and are supplied on condition that the Purchaser grants an irrevocable license to the Company to enter any premises to remove goods which have not been paid for within the agreed timescale or where the Purchaser’s right to possession has terminated.

**6. Suitability of goods**

The Company will, if required to do so, provide the opportunity for a Purchaser to inspect Goods prior to ordering to ensure their suitability for his requirements. Thereafter save as set out in clause 8 hereof and subject to the provisions of the Supply of Goods (Implied Terms) Act 1973 (as amended) the Company gives no warranty that anything supplied by it is fit for any purpose other than the normal purpose for which it is customarily supplied or that its quality, if new, is other than as warranted by the manufacturer, or if not new and has been inspected by the aforesaid is any better than can be expected for the price paid.

## **7. Cancellation**

Cancellation of orders cannot be accepted without the prior agreement in writing of the Company. In the event that the Purchaser's request to cancel the order is accepted by the Company, the Purchaser's deposit shall be forfeited. If the Purchaser shall fail to take and pay for the Goods within 14 days of notification that what has been ordered is ready for delivery, the Company shall be at liberty to treat the contract as repudiated by the Purchaser and thereupon the deposit shall be forfeited without prejudice to the Company's right to recover from the Purchaser by way of damages any loss or expense which the Company may suffer or incur by reason of the Purchaser's default.

## **8. Warranty**

If any Goods supplied by the Company are found to be of defective workmanship or materials so as to entitle the Company to have them replaced or repaired by or at the cost of the manufacturer the company undertakes so to do, provided however that any costs or expenses incurred by the Company in such replacement or repair which are not recoverable from the manufacturer by the Company shall be paid to the Company by the Purchaser and provided also that if owing to the failure of the Purchaser to comply with any terms imposed by the manufacturer the manufacturer is not bound to replace or repair the Company shall be under no liability to the Purchaser.

## **9. Limitation of liability**

(a) All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from any Contract of Sale.

b) The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the contract price.

(c) The Company shall not be liable to the Purchaser for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

## **10. Application of terms**

(a) Sales by the Company will be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Purchaser purports to apply under any purchase order, confirmation of order, specification or other document). No terms or conditions endorsed upon, delivered with or contained in the Purchaser's purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the Contract.

(b) Each order or acceptance of a quotation for Goods by the Purchaser from the Company shall be deemed to be an offer by the Purchaser to purchase Goods subject to these conditions.

## **11. Description of goods**

All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They do not create a sale by sample.

## **12. Force Majeure**

The Company reserves the right to defer the date of delivery or to cancel a Contract or reduce the volume of the Goods ordered by the Purchaser (without liability to the Purchaser) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company, provided that, if the event in question continues for a continuous period in excess of 90 days, the Purchaser shall be entitled to give notice in writing to the Company to terminate the Contract.

## **13. Intellectual Property**

(a) Save as expressly provided to the contrary in this Contract, neither Party shall acquire any ownership interest in, or license of, the other's (or its licensor's) Intellectual Property Rights by virtue of this Contract.

(b) The Company shall procure that all existing and future Intellectual Property Rights in the Goods and/or arising from or in connection with the Services or otherwise pursuant to this Contract ("New IPR") shall vest in the Company (in the case of future Intellectual Property Rights, immediately on creation) under Applicable Laws attaching thereto.

## **14. Third Party Rights**

The parties to this Contract do not intend that any term of this Contract/Agreement will be enforceable by virtue of the Contracts (Right of Third Parties) Act 1999 by any person that is not party to it.

## **15. Governing Law**

The formation, existence, construction, performance, validity and all aspects of this Contract shall be governed by English Law.

Contact Information: -

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\*Calls may be recorded for monitoring and training purposes.

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