

## Simple City – Terms and Conditions of sale

### Terms and Conditions of Sale

The following terms and conditions apply to the agreement between the Company-Simple City and its Customers. This agreement is over and above any terms as agreed in writing between the Company and the Customer.

#### 1. Definitions

In these conditions “the Company” means the Company upon whose documents these conditions are endorsed.

“The Customer” means the person, firm or company or any other body to whom this document is addressed. “The Goods” means the goods referred to as set out in the list and as specified below.

#### 2. Conditions

These conditions shall form the basis of the contract between the Company and the Customer. Notwithstanding anything to the contrary in the Customer’s standard conditions of purchase, these conditions shall apply except so far as expressly agreed in writing by an authorised officer of the Company. No servant or agent of the Company has power to vary these conditions orally or to make representations or promises about the conditions of the Goods, their fitness for any purpose or any other matter whatsoever.

#### 3. Other Acceptance

Unless otherwise expressly stated in writing, all quotations, estimates and catalogues supplied by the Company are invitations to treat. The Customer’s order is an offer and shall become binding upon acceptance by the Company. The contract arising on such acceptance may only be cancelled or varied with the Company’s consent; the giving of the Company’s consent shall not in any way prejudice the Company’s right to recover from the Customer full compensation for any loss or expense arising from such cancellation or variation.

#### 4. Price

(a) All quotations and estimates issued by the Company are, unless otherwise stated, based on the then current cost of production, including (but not limited to) costs of labour materials and carriage and overheads, and are subject to increase on or after acceptance to meet any rise in such costs.

(b) The price is exclusive of VAT. The Company shall be entitled to charge the Customer in addition to the price VAT or any Government tax or levy in substitution therefore at the rate prevailing the date of the Company’s invoice.

## 5. Delivery

(i) The Company is prepared to undertake the delivery of goods, however in this event the Company shall charge the Customer at normal commercial rates for such delivery, unless otherwise agreed in writing

(ii) The Company will deliver as near as possible to the Customer's said address as exists a safe and adequate access thereto. The Customer shall provide at his own expense adequate unloading facilities and all necessary plant power and labour for unloading and stacking, such plant power and labour to be available during the customary cartage hours of the district of the Customer's said address on the date delivered. The Customer shall unload with reasonable despatch.

Damage due to inadequate light access or careless unloading shall be at the Customer's risk.

(iii) The Company undertakes to use its best endeavours to despatch the Goods on the stated delivery date but time of delivery shall not be the essence of the contract. If delivery is delayed by strikes, lock-outs, fire, accident, defective materials, delays in receipt of raw materials or bought in goods or components, or any other cause beyond the control of the Company a reasonable extension of time for delivery related to such cause shall be granted and the Customer shall make no claim for any loss thereby arising.

(iv) If the Customer fails to take delivery on the agreed date or, if no specific delivery rate has been agreed, when the goods are ready for despatch, the Company shall be entitled to store and insure the goods and to charge the Customer the reasonable costs of doing so and to tender its account for the price under condition 7.

(v) The Company may at any time withhold delivery of the Goods to the Customer pending payment of any sum due from the Customer to the Company under any other contract.

(vi) In the event of the Company using an independent haulier to deliver the goods, the Customer shall notify the Company within 5 days of the delivery date of non-delivery/shortages/etc of the said Goods.

## 6. Short Delivery and damage in Transit

The Customer shall note any claim for short delivery and/or damage to the components on the delivery note at the time of delivery, shall notify the Company of the claim orally within two working days and shall confirm in writing to the Company within five working days from the date of delivery. Compliance with this requirement shall be a condition precedent to any claim for short delivery and/or damaged components. If short delivery does take place, the Customer undertakes not to reject the Goods but to accept the Goods delivered as a part performance of the contract. Where the Customer fails to accept deliveries in accordance with the contract, the balance of undelivered goods shall be invoiced to the Customer, the Goods being held at the Customer's risk and any storage and additional carriage costs being charged to the Customer.

## 7. Payment

(a) Unless otherwise specified below the Customer shall pay the price for the Goods not later than the last day of the month following the invoice and shall pay interest on overdue accounts at 4% above Barclays Bank Plc based rate, accruing daily. If the Customer shall fail to pay promptly, he shall lose the benefit of any previously agreed discount.

(b) The Customer shall pay all accounts in full and not exercise any rights of let off or counterclaim against invoices submitted.

(c) In the event of default in payment by the Customer in accordance with these terms, the Company shall be entitled to suspend any further deliveries without notice.

(d) In the case of goods sold by instalments each instalment shall be paid for separately and the provision of this clause shall apply to each instalment.

## 8. Warranties

(a) The Goods are warranted to accord with the agreed specification, or if there is no such specification, to have been subject to inspection by the Company's quality control. All other warranties or conditions as to quality or description (statutory or otherwise) are excluded.

(b) All information and details contained in the Company's specifications have been carefully prepared to avoid errors but their accuracy is not guaranteed and the Company shall not be liable for any inaccuracies or omissions.

(c) Any recommendations or suggestions, relating to the use of the goods made/sold by the Company is given on good faith but it is for the Customer to satisfy itself of the suitability of the Goods for its own particular purpose. Accordingly unless otherwise expressed in writing, the Company gives no warranty as to the suitability of the goods for any particular purpose even though that purpose may be specified in the Customer's order and any implied warranty or condition (statutory or otherwise) to that effect is excluded.

## 9. Guarantee

(i) The customer shall carry out a thorough inspection of the goods within a reasonable time after their delivery and shall give written notice to the Company forthwith of any defects which a reasonable examination would have revealed.

(ii) Subject to compliance with the above obligation, which shall be a condition precedent to the Company's liability, and provided no attempt has been made by the Customer or a third party to rectify, or alter the goods in any way, the Company shall repair or replace (as its option) any goods of the Company's manufacture which are defective due to faulty materials or workmanship. In the case of goods or component parts of goods not of the Company's manufacture, the Company will assign to the Customer its rights against the supplier and these rights shall be taken in extinction of and in substitution for any rights which the Customer would otherwise have had against the Company.

(iii) The liability of the Company under this guarantee or the warranty contained in condition 8(a) hereof shall be limited to the invoice value of the Goods replaced or repaired and the Company shall not be liable for any consequential loss or damage howsoever caused. It shall be the duty of the Customer to insure against such consequential loss and to hold the Company harmless therefore.

## 10. Title and Risk

The title to the Goods shall pass to the Customer only when the Customer has met all the sums owing to the Company howsoever arising. The risk in the Goods shall pass on delivery

and the Customer shall insure against all loss and damage to the Goods. The Customer irrevocably authorises the Company and its duly authorised servants and/or agents to enter upon the Customer's premises for the purpose of repossessing the Goods where the title therein has not passed to the Customer.

**11. Health and Safety**

The Customer undertakes to take all steps necessary to ensure that the goods when properly used will be safe and without risk to health. The Customer shall indemnify the Company against any liability whether civil or criminal which the Company may be under in respect of any illness or injury caused by the Goods or their use.

**12. Product Liability**

The Customer shall indemnify the Company against all loss arising from any liability which the Company may incur in respect of the Goods or any of them resulting from any claim brought against the Company under part 1 of the Consumer Protection Act 1987.

**13. Intellectual Property**

Where the goods are manufactured by the Company in accordance with the Customer's particular requirements the Company shall not be liable for any loss or damage arising out of any claim made or threatened against the Company for infringement or any letters patent, design, copyright, trademark, or any other title or any third party in respect of such goods and the customer shall indemnify the Company against any claims arising such infringement.

**14. Proper Law**

The Company and the Customer agree that the contract is an English Contract and that English law shall be the proper law of the contract.