

CONDITIONS OF TRADING

1. PERIOD OF TENDER

This tender is conditional upon acceptance in writing within thirty days of the date hereof or such longer period as may be agreed in writing, and may be withdrawn at any time during that period.

2. BASIS OF TENDER

This tender is conditional upon the Employer having supplied the Contractor with adequate drawings (where the Contractor is not responsible for design) and with such information regarding construction details and site conditions (including the availability of working and storage areas with suitable access roads, the existence of any abnormalities such as heat, fumes, dust etc.) as will enable the Contractor to make a reasonable estimate of the cost of the supply and erection of the installation and the work to which this tender relates (hereinafter referred to as the installation) and the time for its completion. In the event of the Employer supplying inadequate or inaccurate drawings, information or details, the tender price shall be adjusted accordingly.

3. FORMAL CONTRACT

A Standard Form of Contract (approved by the Heating and Ventilating Contractors' Association) is available for use with these conditions.

4. OVERTIME

This tender is based on the work being done during the recognised normal working hours specified in the National Agreement of the Industry. Overtime authorised by the Customer, his Architect or other agent shall be an additional charge.

5. WORKS AND FEES NOT COVERED IN THE TENDER

This tender covers the items of the specification only and, unless otherwise expressly stated, does not include any of the following (for whatever purpose they may be required), viz: Builders', Joiners', Masons', Plumbers', Painters', Electricians', or any other trades' works: supply and erection of scaffolding, ladders or movable platforms, hoisting and/or lowering gear: fuel, water, gas or electric current: lighting, fees or District Surveyors, Insurance Inspectors or any other Inspecting Authority.

6. TERMS OF PAYMENT

During progress of the work, regular monthly applications for payment reflecting the value of work carried out will be made. Payment will be due within thirty days of the date of each application. If any payment is not made by the due date we may suspend or abandon the work and remove unfixed materials, tools and other equipment from the site. Any loss or expense incurred as a result of discontinuing the work shall be reimbursed by the Customer and the period of discontinuance added to the contract period, without penalty, as an extension of time. Where work is completed within a month, an invoice for the full value of the work will be submitted and will be due for settlement within thirty days of the invoice date.

Where a discount is offered, this is strictly based on the Main Contractor making full payment of the due amount within the qualifying period as indicated on the contract documents. If no period is stated, discount is only applicable if full payment is made within 21 days of date of certificate. All payments made outside the qualifying period must be made without any discount being taken and failure to observe this clause may result in legal action to recover any discounts so taken.

If legal action is taken to recover monies due then interest at Lloyds Bank current rate plus interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, from the due date, may be added at our discretion.

7. PRICE FLUCTUATION

This tender is based on the market prices and rates of materials, labour, sub-contracts and transport ruling at the date of tender. We reserve the right to amend the tender prices and rates to meet any variations in these prices and rates due to legislation, Government Orders, Regulations or Directions, changes in the National Agreement covering wages and conditions in the Industry, or any other cause beyond our control occurring between the date of the tender and the completion of the work.

8. MATERIALS

The property in unfixed materials shall not pass until all materials shall have been paid for in full. All materials on the site fixed or unfixed are at the sole risk of the Customer and in the event of any of the same being damaged, destroyed or stolen we shall be entitled to full payment therefore and also for any work damaged, destroyed or lost, and the cost of replacing any such material and of reinstating or restoring any such work shall be charged as an extra provided that the Customer shall not be responsible for any loss occasioned solely by the negligence of our employees.

9. PROVISION OF FACILITIES

When required the Customer shall provide free of charge adequate secure storage space and all necessary water, lighting, power supply and fuel for testing.

10. INSURANCE

The Employer shall, for the benefit of himself and the Contractor, insure and keep insured the full value of the installation, the materials and goods on site for incorporation into the installation and the cost of any professional fees or services against loss or damage by fire, explosion, storm, tempest, flood, bursting or overflowing of water tanks, apparatus or pipes (whether such loss or damage is caused or contributed to by the negligence of the Contractor or those for whose actions the Contractor is responsible) lightning, earthquake, aircraft or anything dropped therefrom, aerial objects, riots and civil commotion, and such loss or loss or damage which may occur shall be at the sole risk of the employer.

11. GUARANTEE AND LIMITATION OF LIABILITY

(1) The Contractor shall only be liable to make good any defects in the installation which stem from his faulty design or his selection of unsuitable or inadequate materials or from faulty materials or bad workmanship. Provided that:

- The contractor receives written notice of any defect within 12 months of the completion of the installation: and
- the installation has been used under proper operating conditions: and
- in the case of materials and goods supplied and fixed but not manufactured by the contractor, the extent of the Contractor's liability in respect thereof shall not exceed the extent of his supplier's or the manufacturer's liability to the contractor.

PROVIDED that paragraph 16 (1) (iii) shall not operate unless, before entering any contract for the purchase of such materials and goods, the Contractor has informed the Employer of the nature and extent of his supplier's intention to limit or exclude his liability and:

- the Employee has agreed that his Contractor's liability under these Conditions shall, mutatis mutandis, be of the same nature and extent, or
 - there are no alternative sources of supply for the materials and goods.
- (iv) the Contractor shall not be liable to make good any defects of the installations which arise from the operation of the same by the Employer, his servants or agents before the date of completion, nor shall the Contractor be liable for any loss or damage arising directly or indirectly as a consequence of such operation.
- (2) Completion of the installation shall be deemed to have occurred and the guarantee period to have commenced on the date on which the Contractor gives written notice to the Employer or his agents that the installation is ready for use.
- (3) the Contractor shall not be liable in respect of any defect which may occur in any previously existing system to which the installation may be connected unless and to the extent that such defect is caused or contributed to by a defect in the installation for which the Contractor would be liable under this Clause.

- (4) Save as is provided in this clause, the Contractor shall not be liable for any loss or damage whether arising directly or indirectly as a consequence of any defect in the installation save to the extent that such defect is caused by the negligence of the Contractor, his servants or agents.

This Guarantee does not affect your statutory rights.

12. DRAWINGS

Unless expressly stated drawings submitted with this tender shall not be binding as to detail and remain the copyright of Sayes & Co. Ltd.

13. THIRD PARTY/PUBLIC LIABILITY

The Employer shall indemnify the Contractor and his employees against all claims including the cost of any legal proceedings in respect of the death of or injury to any person or for any damage to or loss of property made by any person against the Contractor or the Employer whether under Statute or common law which may arise out of or be in any way connected with the execution of the installation except where the same is due to the negligence, omission or default of the Contractor.

14. COMPLIANCE WITH LAW AND REGULATIONS

- Any fees incidental to the execution of the installation which are payable by reason of any Statute, Order-in-council, Regulation or Direction, Bye-Law or other lawful requirement or instruction (hereinafter referred to as "requirement or regulation") are to be paid by the Employer.
- The Employer and Contractor shall each respectively comply with every applicable good practice, requirement or regulation whether of the Government or any local or other lawful authority and the Employer shall obtain every licence, permit or authority that may be required in connection with the installation.

15. COMPLETION AND DELIVERY

We will make every effort to complete the work and/or deliver the goods by the time stated. We will not be liable for lock-outs or other causes beyond our control which may cause delay.

16. DETERMINATION

(1) If:

- the Contractor wholly suspends the execution of the installation without reasonable cause: or
- the Contractor fails without reasonable cause to proceed regularly and diligently with the installation: or
- the execution of the installation is delayed due to reasons beyond the control of both parties: or
- the execution of the installation is delayed due to reasons within the control of the Employer: or
- the Employer fails to make any payment in accordance with the provisions of Clause 9

then if the circumstances mentioned in paragraphs 16(1)(i) continue for ten days after notice has been sent by registered post or recorded delivery specifying the same by the Employer to the contractor, or if the circumstances mentioned in paragraphs 16(1)(iii) - (v) continue for ten days after notice in the said form has been sent by the Contractor to the Employer, then the party who sent the said notice may, by further notice sent by registered post or recorded delivery, forthwith determine the employment of the Contractor under these Conditions, PROVIDED that such notice shall not be given unreasonably and provided that any such determination shall be without prejudice to any other rights or remedies of the party effecting determination.

- If either party commits an act of bankruptcy or enters into any deed of arrangement or composition with his creditors or enters into bankruptcy or liquidation (whether compulsory or voluntary) except for the purposes of company reconstruction, then the other party may, by notice sent by registered post or recorded delivery to the other, herewith determine the employment of the Contractor under these Conditions.
- Upon such determination, after taking into account amounts previously paid, the Contractor shall be entitled to be paid:

- any design costs:
- the total value of work begun and/or completed up to the date of determination:
- the cost of materials and goods ordered for the installation for which the contractor has paid or is legally bound to pay. Upon such payment, title to the said materials and goods shall pass to the Employer and the Contractor shall make the same available for collection by the Employer:
- the cost or removal from the site of any property of the Contractor property on site for the execution of the installation:
- any direct loss and/or expense (including overheads and/or financing charges) caused to the Contractor whether by determination or otherwise under these Conditions: and
- any other amounts due to the Contractor under these Conditions.

PROVIDED that where determination has been effected for the reasons mentioned in paragraph 16(1)(i) - (iii), then paragraph 16(3)(v) shall be deemed to be deleted.

AND PROVIDED that where determination has been effected for the reasons mentioned in paragraphs 16(1)(ii) and (iii), the Employer shall be entitled to recover from the contractor any direct loss and/or expense (including overheads and/or financing charges) caused to the Employer whether by determination or otherwise under these Conditions.

AND PROVIDED ALSO that where determination has been effected for the reasons mentioned in paragraphs 16(1)(iv) or (v), the contractor may take possession of and shall have a lien upon all unfixed goods and materials which may have become the property of the Employer until the payment of all monies due to the Contractor from the Employer.

- Where the amounts already paid to the Contractor exceed those due to him under sub-clause 16(3), then the balance shall be returned to the Employer.

17. V.A.T.

This tender is exclusive of any Value Added Tax that may be applicable. When V.A.T. is chargeable it must be paid as it becomes due along with interim payments.

18. GENERAL

- The above conditions shall apply not only to this tender (if accepted) but to all orders subsequently placed with us by or on behalf of the same customer in connection with the same work unless otherwise agreed in writing.
- Discounts* All quotations are strictly nett and do not provide any discounts unless otherwise stated.