



## Terms & Conditions of Sale

### 1. Interpretation

"Buyer"	the person(s), firm or company whose order for the Goods is accepted by the Company.
"Company"	Roadtechs Specialist Products Ltd (Company number 08205241).
"Contract"	the contract between the Company and the Buyer for the sale and purchase of the Goods in accordance with these Terms & Conditions.
"Goods"	any Goods which the Company supplies to the Buyer (including any of them or any part of them) under contract.
"Order"	the Buyer's order for the Goods, as set out in the Company's Order Confirmation
"Specification"	any specification for the Goods, including any related plans and drawings, that is agreed [in writing] by the Buyer and the Company.
"Terms & Conditions"	the standard terms and conditions of sale set out in this document together with any special terms agreed in writing between the Buyer and the Company.

### 2. Basis of Contract

- 2.1 These Terms & Conditions apply to the Contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase the Goods pursuant to these Terms & Conditions.
- 2.3 The Buyer is responsible for ensuring that the terms of the Order or the Specification are complete and accurate.
- 2.4 In placing orders the Buyer shall be deemed to have accepted the Company's Terms and Conditions notwithstanding any terms and conditions printed or otherwise contained in the Buyer's order and/or delivery instructions.
- 2.5 The Order shall only be deemed to be accepted when the Company issues written acceptance of the order, at which point the Contract shall come into existence. The acceptance of any Order is subject to the agreement of credit terms.
- 2.6 A quotation for the Goods given by the Company shall not constitute an offer. A quotation shall only be valid for a period of three months from its date of issue.
- 2.7 The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Company which is not set out in the Contract.

### 3. Goods

- 3.1 The Goods are as described in the Contract.
- 3.2 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by the Buyer, the Buyer shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Company in connection with any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 The Company reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

### 4. Price and payment

- 4.1 The price of the Goods shall be the price set out in the Order. The price of the Goods is exclusive of VAT. The Buyer shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- 4.2 Our price is based upon the costs of labour, fuel, transport, materials and government taxes applicable at the date of quotation and we reserve the right to pass on subsequent increases.
- 4.3 Payment shall be due in full and in cleared funds within 30 days from the date of the invoice (**Due Date**) unless otherwise agreed. Time of payment is of the essence.
- 4.4 If the Buyer fails to make any payment due to the Company by the due date for payment, then the Company reserves the right to charge interest at 1% per month on all overdue accounts. Such interest shall accrue on a daily basis from the due date until the actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.
- 4.5 The Buyer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Company may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Company to the Buyer.

### 5. Warranties

- 5.1 The Company warrants that on delivery the Goods shall:
  - a) conform in all material respects with their description and any applicable Specification;
  - b) be free from material defects in design, material and workmanship; and
  - c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 5.2 Subject to clause 6.2, if:

- a) the Buyer gives notice in writing to the Company within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;
  - b) the Company is given a reasonable opportunity of examining such Goods; and
  - c) the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business, the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.3 The Company will not be liable to the Buyer for damage to or loss of the Goods or any part thereof in transit (where the goods are carried by the Company's own transport or by a carrier on behalf of the Company) unless the Buyer shall notify the Company of any such claim within 48 hours of receipt of the Goods or the scheduled date of delivery whichever shall be the earlier followed by a complete claim in writing within seven days of the date of advice of despatch, in which case the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

## **6. Liability**

- 6.1 Nothing in these Terms & Conditions shall limit or exclude the Company's liability for:
- a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - b) fraud or fraudulent misrepresentation;
  - c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
  - d) defective products under the Consumer Protection Act 1987.
- 6.2 Subject to clause 6.1 the Company shall under no circumstances whatever be liable to the Buyer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any:
- a) loss of profit;
  - b) loss of revenue;
  - c) loss of business; or
  - d) loss of anticipated savings;
- in each case whether direct or indirect or for any indirect, special or consequential loss or damage arising under or in connection with the Contract;
- 6.3 Subject to clause 6.1 the Company will not be liable to the Buyer for defects in the Goods caused by:
- a) fair wear and tear;
  - b) abnormal conditions of storage or abnormal working conditions, wilful damage, negligence by the Buyer or any third party;
  - c) failure to follow the Company's instructions (whether oral or writing) in respect of the operation or use of the Goods;
  - d) misuse or alteration or repair of the Goods without the Company's prior written approval, or where the Goods have been improperly installed;
  - e) any Specification provided by the Buyer,
- 6.4 The Company will not be liable to the Buyer for shortages in quantity delivered unless the Buyer notifies the Company of any claim for short delivery within 48 hours of the delivery of the Goods.
- 6.5 Except as provided in clause 5, the Company shall have no liability to the Buyer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 6.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 6.7 These Terms & Conditions shall apply to any repaired or replacement Goods supplied by the Company.
- 6.8 Subject to clause 6.1, the Company's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the price of the Goods.

## **7. Cancellation and Suspension**

- 7.1 The Company may immediately terminate the Contract in the event that the Buyer fails to pay any sum due in accordance with the Contract or these Terms & Conditions.
- 7.2 If the Buyer becomes subject to any of the following events listed, the Company may terminate the Contract with immediate effect by giving written notice to the Buyer:
- a) the Buyer 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 (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
  - b) the Buyer 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 its creditors;
  - c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Buyer, other than for the sole purpose of a scheme for a solvent amalgamation of the Buyer with one or more other companies or the solvent reconstruction of the Buyer;
  - d) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Buyer;
  - e) (being a company) the holder of a qualifying floating charge over the Buyer's assets has become entitled to appoint or has appointed an administrative receiver;
  - f) a person becomes entitled to appoint a receiver over the Buyer's assets or a receiver is appointed over the Buyer's assets;
  - g) (being an individual) the Buyer is the subject of a bankruptcy petition or order;
  - h) a creditor or encumbrancer of the Buyer 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;
  - i) any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 6.2(a) to clause 6.2(f) (inclusive);
  - j) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
  - k) the Buyer's financial position deteriorates to such an extent that in the Company's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and
  - l) (being an individual) the Buyer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

- 7.3 Without limiting its other rights or remedies, and subject to clause 6.1, the Company may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Company if the Buyer becomes subject to any of the events listed in clause 7.2a) to clause 7.2l), or the Company reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.
- 7.4 On termination of the Contract for any reason the Buyer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest.
- 7.5 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.
- 7.6 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## **8. Deliveries**

- 8.1 Either:
- a) the Company shall deliver the Goods to the Buyer's address or such other location as the parties may agree (**Delivery Location**) at any time after the Company notifies the Buyer that the Goods are ready; or
  - b) the Buyer shall collect the Goods from the Company's premises at The Airfield, Barondole Lane, Topcroft, NR35 2BE or such other location as may be advised by the Company within 3 business days of the Company notifying the Buyer that the Goods are ready.
- 8.2 Delivery of the Goods shall be completed on the Good's arrival at the Delivery Location or on the completion of loading of the Goods at the Company's premises or such other location as may be advised by the Company.
- 8.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Company shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 8.4 The price quoted allows for a maximum of 30 minutes for delivery vehicles at the Delivery Location and assumes good access to the Delivery Location. Excess time will be charged at day work rates. Deliveries required outside normal working hours will be subject to extra charges.
- 8.5 The Buyer shall, at his expense provide facilities and labour to assist the Company's driver where materials are to be delivered or collected.
- 8.6 If the Buyer fails to take delivery or arrange for collection of the Goods within three business days of the Company notifying the Buyer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Company's failure to comply with its obligations under the Contract:
- a) delivery of the Goods shall be deemed to have been completed at 9am on the third business day after the day on which the Company notified the Buyer that the Goods were ready; and
  - b) the Company shall store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).
- 8.7 If ten business days after the day on which the Company notified the Buyer that the Goods were ready for delivery the Buyer has not taken delivery or arranged collection of them, the Company may resell or otherwise dispose of part of all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods or charge the Buyer for any shortfall below the price of the Goods.

## **9. Returns**

- 9.1 All returns are at the Company's sole discretion. No Goods delivered to the Buyer which are in accordance with the Contract can be returned to the Company without prior negotiation and an issue of return authorisation. In any event a handling and administration charge may be levied against the value of all Goods to be returned. All returns are subject to Quality Assurance procedures and subject to appropriate extra charges at the sole discretion of the Company.

## **10. Reservation of Title**

- 10.1 The risk in the Goods shall pass from the Company to the Buyer upon completion of the delivery or collection of such goods to or by the Buyer. However, notwithstanding delivery and the passing of risk in the Goods, title and property in the goods, including full legal and beneficial ownership shall not pass to the Buyer until the Company has received in cash or cleared funds payment in full for all goods delivered to the Buyer under this and all other contracts between the Company and the Buyer for which payment of the Goods thereunder has not been paid. Payment of the full price of the Goods shall include the amount of any other sum payable under the terms of this and all other contracts between the Company and the Buyer in which the Goods were delivered.
- 10.2 The Company may recover and re-sell any or all such Goods at any time before title has passed to the Buyer. The Buyer undertakes to give access to its premises and to the Goods and to enable the Company to retake possession. The Company intends to exercise its rights under this clause, only if the Buyer becomes subject to any of the events listed in clause 7.2.
- 10.3 Notwithstanding the Company's reservation of title, the parties agree that for auditing and taxation purposes, the Goods will be treated as the Buyer's stock from the date of delivery.
- 10.4 Until title of the Goods has passed to the Buyer, the Buyer must:
- a) Store the Goods (at no cost to the Company) in such a way that they remain readily identifiable as the Company's property;
  - b) Not destroy, deface or obscure any identifying mark, or packaging on or relating to the Goods;
  - c) maintain the Goods in a satisfactory condition insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company, and will whenever requested by the Company produce a copy of the policy of insurance;
  - d) notify the Company immediately if it becomes subject to any of the events listed in clause 7.2; and
  - e) give the Company such information relating to the Goods as the Company may require from time to time.

## **11. Export Sales**

- 11.1 Where Goods are supplied for export from the United Kingdom, the provisions of this clause 11 will (subject to any special terms agreed in writing between the Buyer and the Company) apply notwithstanding any other provision of these Terms & Conditions. In the event of any inconsistency the provisions of this clause will prevail.
- 11.2 In any case where the Goods are sold CIF or FOB or on the basis of any other international trade term, the meaning of such term contained in Incoterms as revised from time to time will apply except where inconsistent with any of the provisions contained in these conditions when these conditions will prevail.
- 11.3 Unless otherwise agreed in writing by the Company payment of all amounts due to the Company shall be secured by an irrevocable letter of credit satisfactory to the Company established by the Buyer in favour of the Company immediately upon

receipt of the Company's acknowledgement of order and confirmed by a United Kingdom bank acceptable to the Company. The letter of credit shall be for the contract price inclusive of any tax and duty payable by the Buyer and shall be valid for at least 6 months or such longer period as shall have been estimated by the Company for delivery. The Company shall be entitled to payment on presentation to such United Kingdom bank of the documents specified by the Company or as herein stipulated.

11.4 Section 32 (2) of the Sale of Goods Act 1979 shall not apply. The Company shall not be required to give the Buyer the Notice specified in Section 32 (3) of that act.

## 12. Force Majeure

12.1 Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

## 13. General

### 13.1 Assignment and other dealings.

- a) The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- b) The Buyer may not assign, transfer, mortgage, charge, subcontract, 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 Company.

### 13.2 Notices.

- a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or e-mail.
- b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.2a); 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; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one Business Day after transmission.
- c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

### 13.3 Severance.

- a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- b) If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

13.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. 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.

13.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

13.6 **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 in writing and signed by the Supplier.

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

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