

CONDITIONS OF SALE



1. Definitions

The "Seller" means L.A. HUSBANDS LIMITED
The "Purchaser" means the immediate purchaser of any goods under a contract of sale with the Seller.

2. Validity

Unless other terms and conditions are expressly accepted by the Seller by means of a written amendment to these Terms and Conditions signed by one of the Seller's Directors and referring specifically to the terms or conditions to be amended the Contract will be on the terms and conditions set out herein thereafter together called the "Contract Terms" to the exclusion of any other terms and conditions except those conditions unavoidably implied by statute and those terms and conditions implied in favour of a seller which are not inconsistent with the Contract Terms whether or not the same are endorsed upon, delivered with or referred to, in any Purchase Order or other document delivered by the Purchaser to the Seller. Any reference to the Purchaser's Order Specification or like document will not be deemed to imply that any terms or conditions endorsed upon delivered with or referred to in such Order Specification or like document will have effect to the exclusion or amendment of the Contract Terms.

3. Quotations

Unless otherwise stated:

- Prices are based on the cost of material, labour, transport, customs and other duties and other overheads ruling at the Date of the Acceptance of Order and are subject to adjustment by the Seller in accordance with the Formula for Contract Price Adjustment (current edition) compiled by the National Association of Lift Makers to take into account any alteration in such prices prior to completion of the installation.
- Quotations assume that all work will be performed during ordinary working hours and if it be agreed that overtime be worked, there shall be added to the extra costs incurring overhead charges and 10% profit.
- Orders for goods made to the Purchaser's requirements will be charged according to the costs of materials, labour and other overheads and not by reference to price list.
- Any quotation made by the Seller on a fixed price basis will only be capable of acceptance by the Purchaser within 28 days of the date of quotation.

4. Guarantee Exclusion Clauses, Defects etc.

- If during the period of 1 year on or after completion of the installation any part manufactured or installed by the Seller is found on inspection by the Seller to have proved defective in material or workmanship under normal use and service the Seller will provide a free of cost repair or if the Seller wishes replace such part provided that the Seller is notified as soon as possible after discovery of the defect.
The Seller will not however be liable to repair or replace any part unless following installation servicing is carried out by the Seller or by a person approved in writing by the Seller and all accessible parts are kept properly cleaned in accordance with the Seller's instruction.
- Subject only to clause 4.2.6 hereof the following conditions apply.
 - The Seller will be under no liability under the Contract for any loss or damage of any kind whatsoever (except for personal injury or death) whether consequential or otherwise and the Seller excludes all conditions and warranties express or implied or statutory or otherwise which but for such exclusion would or might subsist in favour of the Purchaser.
 - Under no circumstances will the Seller be liable for any loss or damage of any kind whatsoever (except for personal injury or death) whether consequential or otherwise caused directly or indirectly by any negligence on the Seller's part or on the part of any of the Seller's servants or agents whether or not in the installation, modification, testing, fitting, repair or inspection of the goods or in connection with any services supplied under the Contract whether or not at the Seller's premises or at the Purchaser's premises (this being without any prejudice to any of the other Contract Terms).
 - Without prejudice to the generality of any of the other Contract Terms the Purchaser must notify the Seller immediately any defect in the goods which the Purchaser considers is the responsibility of the Seller under the Contract Terms or otherwise the Purchaser will not take any action to have such defect remedied or to incur any expense arising as a result of such defect without the prior consent of one of the Seller's Directors. If the Purchaser fails so to notify the Seller and obtain such consent the Seller will not be liable either for the cost of any work carried out otherwise than by the Seller or any such expense.
 - Without prejudice to the generality of Clause 4.2.1 and unless otherwise agreed in writing no terms or conditions are made or to be implied nor is any warranty given or to be implied as to the life or wear of the goods supplied or that they will be suitable for any particular purpose or for use under any specific conditions, notwithstanding that such purpose or conditions may be known or have been known to the Seller.
 - No recommendation by the Seller of any goods or services supplied by any other person shall make the Seller in any way liable in respect of such goods or services.
 - Nothing herein contained shall be deemed to exclude or restrict any liability which cannot be excluded or restricted under the provisions of the Unfair Contract Terms Act 1977.
 - The Purchaser shall not use or permit to be used the whole or any part of the equipment the subject of this Contract before it has been completed, tested or handed over by the Seller.
- The Seller will so far as practicable insure its own normal legal liability in respect of claims by the Purchaser or third parties up to a limit of £1,500,000. The Purchaser is advised to insure adequately against its own liabilities arising from the performance of a contract with the Seller.

5. Design, etc.

- Where the goods are manufactured to the design or specification of the Purchaser:
 - The Purchaser warrants that such goods do not infringe any patent registered design or other like protection or the provision of any statute statutory instrument or regulation for the time being in force and will indemnify the Seller against any claim or liability made against or suffered by the Seller as a result of any such infringement.
 - The Seller will have the right to retain any drawings, specifications or other documents supplied by the Purchaser.
- All descriptive and shipping specifications, drawings and particulars of weights and dimensions submitted by the Seller to the Purchaser are approximate only and the descriptions and illustrations contained in the Seller's catalogue and other advertisement matter for the purposes of presenting a general idea of the goods described therein and none of the above documents will form part of the contract.
- Care has been taken to ensure the accuracy of any representations as to quality or otherwise made by the Seller to the Purchaser but no sale shall be invalidated by reason of any error in any such representations and no damages or other compensation shall be made in respect of any such error.
- No variation by the Seller in the specification or design of any of the goods will constitute a breach of contract or impose upon the Seller any liability whatsoever.
- The Purchaser agrees to acquiesce himself with the requirements of all government or statutory or other authorities, bodies or corporations relating to the goods and undertakes at all time to comply with such requirements and will indemnify the Seller and keep the Seller indemnified against any liability due to a breach of any such requirements.

6. Delivery

- Unless otherwise agreed the Seller's quotation includes delivery to site but no allowance shall be made for carriage when any goods are collected from the Seller's premises by the Purchaser.
- Unless otherwise agreed in writing the Seller will be entitled to make delivery of the goods by installments and to invoice the Purchaser for each installment dispatched.
- If the Purchaser shall fail to take and accept liability for payment for the goods within 14 days of notification that the goods are available for delivery, the Seller shall be at liberty to treat the contract as repudiated by the Purchaser and thereupon any deposits shall be forfeited without prejudice to the Seller's right to recover from the Purchaser by the way of damages any loss or expense which the Seller may suffer or incur directly or indirectly by reason of the Purchaser's default.
- No claim for damages, shortages or non-delivery will be considered unless the Seller and the carrier are advised in writing within 14 days of invoice date.
 - The Seller will endeavour to complete the Contract or deliver the goods within the time agreed and if no time is agreed within a reasonable time but in no circumstances will the Seller be liable for any loss or damage of any kind whatsoever caused directly or indirectly by any delay in the completion of the Contract or the delivery of the goods nor will any such delay entitle the Purchaser to repudiate or rescind the Contract.
 - If any such delay occurs then the Seller's period for performing his obligations shall be extended by such period (not limited to the length of delay) as the Seller may reasonably require to complete the performance of his obligations.
- If for any reason whatsoever the completion of the contract or the delivery of the goods is in the Seller's opinion rendered impracticable the Seller may terminate the contract by sending by ordinary post or by delivering to the Purchaser a notice in writing to that effect. Thereupon the Purchaser will pay to the Seller such a sum as will together with any other sum paid previously bear the same proportion to the price as the goods and services supplied bear to the services and the sale contracted for.

- Without prejudice to the generality of Clause 6.5, if a manufacturer of all or part of the goods described in this Contract (from whom the Seller is buying for resale to the Purchaser) ceases to make goods of that type the Seller may (whether estimated delivery date has arrived or not) by notice in writing to the Purchaser cancel the Contract.
- The Purchaser shall at his own expense before the estimated delivery date ensure that the site is ready to receive the goods and that all the facilities and items listed in the Schedule hereto have been or will be provided by the Purchaser when required by the Seller.

7. Storage

Without prejudice to Clause 6.3 hereof if the Purchaser fails to take delivery of the goods at the expiry of 14 days after the Seller has notified the Purchaser that they are ready for delivery the Seller may at its own option either store them itself or have them stored by third parties on such terms as it may in its absolute discretion think fit. In any event the cost of storage and any additional transportation charges will be borne by the Purchaser and in so far as the storage or transportation is done by the Seller then these costs will be the Seller's storage charges current at the time of storage. The costs will be added to and form part of the price.

8. Passing of Property and Risk

- 8.1 The property in goods or material supplied under the Contract will not pass to the Purchaser until the price for all such goods and materials and all other sums due from the Purchaser under the Contract have been paid in full.
 - If the Purchaser resells goods or materials supplied under the Contract (whether or not prior to such resale any of such goods or materials) have in anyway been incorporated into other goods or realty before the Seller has been paid in full the Seller shall have the right to the proceeds of such sale. Any such resale by the Purchaser shall be made subject to the Seller's rights under Clause 8.1.4.
 - Without prejudice to any of the Seller's other rights (whether to damages or under the Contract Terms or otherwise howsoever) the Seller may at any time after the price for goods or materials or any other sum payable by the Purchaser to the Seller under the Contract has become due and remains unpaid recover the goods or materials or any part of them whether erected or not and may enter onto the Purchaser's premises either by the Seller's servants or agents for that purpose.
 - Whether or not the price for goods or materials or any other sum has become due from the Purchaser under any of the Contract Terms such price or such sum will be deemed due from the Purchaser immediately on his committing any act of bankruptcy, calling a meeting (whether formal or informal) of any of his creditors or (where the Purchaser is a body corporate) having a Receiver or Manager appointed of its undertaking or any part thereof or on a resolution being passed or on a partition being presented to any Court for the winding up of the Purchaser or on the happening of any act whatsoever or the commencement of any proceeding whatsoever relating to the insolvency or possible insolvency of the Purchaser.
- The risk in the goods shall pass on delivery to the Purchaser or carrier whichever is earlier save that where the goods are stored by the Seller or a third party in accordance with Clause 7 above the risk shall pass at the expiry of the said 14 day period and in all cases the passing of risk shall be irreversible.

9. Price and Payment

- Unless expressly stated otherwise, the price quoted is the net price exclusive of Value Added Tax.
- Unless otherwise agreed in writing in the case of all inland sales payment of the full purchase price and any additional transportation, insurance and packaging charges or other additional costs must be made within 28 days of despatch of invoice by the Seller to the Purchaser.
- Interest shall be paid on all overdue accounts from the date payment was due until actually made at 2% above Bank of England Minimum Lending Rate for such period.
- In the event of the Seller varying or suspending work in connection with the sale of the goods at the Purchaser's instructions or in the event of lack of instructions the Seller may adjust the price to recover all additional costs and charges arising from such variation or suspension of work.

10. Import Arrangements

The Purchaser shall be responsible for obtaining any export or import licence or consents of whatsoever nature necessary and for the payment of any import duties or other taxes arising or other such levies or charges in connection with the sale.

11. Notices

Any notice given hereunder may be served personally or be left at the residence or place of business or registered office of the person to whom it is addressed, or may be sent by post, in which case it shall be deemed to have been received.

12. Termination

- This Contract will terminate immediately upon service of written notice of termination by the Seller on the Purchaser on any one or more the following grounds:
 - That the Purchaser has become subject to Bankruptcy Laws or has made an arrangement or composition with creditors or otherwise taken the benefit of any Act for the time being in force for the relief of insolvent debtors or has suffered or allowed any execution whether legal or equitable to be levied on his property or obtained against or (being a body corporate) has convened a meeting of creditors (whether formal or informal) or has entered into liquidation whether voluntary or compulsory (except a voluntary liquidation for the purpose only of reconstruction or amalgamation) or has a receiver appointed of its undertaking or any part thereof.
 - That the Purchaser has failed to observe or perform any of its obligations or duties under the contract.
 - Termination of this Contract in anyway whatsoever will be without prejudice to the rights, obligations and liabilities of either party accrued prior to termination.

13. General

- The Seller carries on business as a manufacturer, supplier and installer of lifts and elevation equipment. If the Purchaser cancels or purports to cancel the order or any part thereof or fails to take delivery of any goods at the time agreed (if any) such cancellation or failure is likely to cause dislocation to the Seller's production and the Purchaser will be liable without prejudice to the Seller's other rights to claim damages to indemnify the Seller against any loss, damage or claim resulting from such dislocation and any loss damage or expense incurred by the Seller in connection with the manufacture or non-manufacture of the goods including but not limited to the payment of licence and other fees the cost of any material, plant or tools used or intended to be used therefore and the cost of labour and other overheads including the costs of any losses arising upon a resale of the goods.
- Failure by the Seller to enforce any of the Contract Terms shall not be construed as a waiver of any of the Seller's rights hereunder.
- The illegality, invalidity or unenforceability of any clause or part of this Contract will not affect the legality, validity or enforceability of the remainder thereof.
- The Seller will be entitled to assign sub-contract or sub-let the Contract or any part thereof.
- This Contract shall be construed and operate in accordance with English Law and the Purchaser hereby submits himself to the jurisdiction of the English courts.
- The headings to these conditions are for the convenience of reference only and will not affect the meaning of anything contained herein.

14. Schedule

The Seller excludes the following items which will be provided by or be the responsibility of the Purchaser:-

- Calculations with regard to the building.
- Builders and electricians work such as forming lift well, cutting apertures, also, cutting away and making good and site painting.
- Guarding of openings.
- Scaffolding, planks and ladders to the lift maker's requirements.
- Off-loading and storage of materials, tools and clothing in a suitably locked, dry, heated and illuminated storage space protected from theft and damage.
- Working lights, temporary and permanent electricity supplies.
- Mess Rooms, sanitary accommodation and welfare facilities.
- Provision for reinforcement of pavements and floors, making suitable access and trucking. Provision for lifting equipment and unskilled labour for handling the lift and its components to its final position on site.
- The Seller will be entitled to assign sub-contract or sub-let the Contract or any part thereof.
- Cleaning down, renewal or replacement of lift equipment damaged by dust produced from such processes as dry grinding of mosaic and other builders work.
- Extra costs due to surveyor's fees or special requirements of government departments, local authorities, insurance companies or other bodies or officials.
- Provision for safe access to the lift well which it is the responsibility of the Purchaser or owner to provide in order to comply with the Health and Safety at Work Act etc.