

Stone Hardy Limited.
CONDITIONS OF BUSINESS
(Sale of Goods and Supply of Services)



1. Definitions

In these conditions ("the Conditions") the following expressions shall have the meaning set opposite them

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|------|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.1. | The Company | means Stone Hardy Limited |
| 1.2. | The Customer | means the person, firm or company which has placed an Order which has been accepted by the Company. |
| 1.3. | The Goods | means goods, machinery, vehicles and spare parts to be supplied by the Company under the Order. |
| 1.4. | The Materials | means materials, plant, equipment or vehicles belonging to the Customer upon which the Company will perform the Services. |
| 1.5. | The Order | means the Contract between the Company and the Customer for the supply of goods and/or the performance of services and incorporating the Conditions. |
| 1.6. | The Price | the price means the price quoted for goods and services |
| 1.7. | The Service | means the Services and repair work to be performed by the company on the Materials in accordance with, or as can be reasonably inferred from the Order. |

2. Applicability of Conditions

The Conditions shall apply to every Order and are to prevail over any terms and conditions incorporated into any document or oral statement issued or made by the Customer. No variation or alteration of the Order shall be of any effect unless expressly agreed in writing by both parties.

3. Price & Payment

- 3.1. Unless otherwise Agreed the price payable in respect of:-
- 3.1.1. Goods shall be that prevailing on the date of the completion of the job.
 - 3.1.2. Services shall be calculated by reference to the Company's hourly rate prevailing at the date of the completion of the job.
- 3.2. Unless Otherwise agreed in writing the terms of payment shall be as follows:-
- 3.2.1. 30 days from date of invoice
 - 3.2.2. Payment in respect of Goods shall be made in full on or before delivery ; and
 - 3.2.3. Payment in respect of services shall be made as in (3.2.1) above on, or before re-delivery to or collection by the customer of the Materials.
 - 3.2.4. The company reserves the right to apply and claim interest at 4% above the National Westminster base rate on all invoices or part of invoices that remain unpaid after the 30 days referred to in (3.2.1) above, before, as well as after, any judgment.
- 3.3. When payment of any invoice is overdue the Company may suspend work on any orders with the Customer to which that invoice relates and/or to any other order then subsisting between them
- 3.4. All prices are quoted net of VAT; this will be charged by the Company at the date of Despatch of Goods and/or performance of Services as the case may be.
- 3.4.1. All prices quoted are based upon costs at the date of the Order and unless otherwise agreed by the Company are subject to amendment on or at any time after acceptance to meet any rise in costs caused by any alteration in the nature or extent of the Services from that specified in the Order as a result of any change in the law affecting the Services or of the Customer's instructions or any delays in the Services due either to late delivery of the Materials to the Company or to the Customers instructions or lack of instructions or to any other delay caused by the Customer or a third party.
 - 3.4.2. If upon commencing the Service the Company identifies additional work is required to make the Material Safe and Serviceable then the Company will make reasonable endeavours to inform the customer of this work. Unless Stipulated by the customer beforehand this work will be completed and the customer liable for payment of such additional work.
 - 3.4.3. If work is suspended or delayed at the request of the Customer or by any default of the Customer for a period of 14 days, the Company shall be entitled to be paid the Price.
 - 3.4.4. The Company reserves the right to charge the Customer in accordance with the Company's current rates when personnel and/or equipment have to wait before work on the Client's materials can begin because the client's materials are not available to work on. For the purposes of clarification this includes but is not limited to;

Materials not at agreed Location or is in a position which prevents the companies representative from commencing the service on arrival
The Materials is in a location which the company's representative deems to be too unsafe to carry out the service.
The Goods which may have been sent to the customer prior to attendance are not readily available.

4. Cancellation

- 4.1. Orders cannot be cancelled after acceptance by the Company unless agreed by the company. Cancellation charges will apply where costs have been incurred which will include any Travel, Mileage, Callout Fee and the administration fee per our standard tariff prevailing at the date of Cancellation.
This applies per vehicle not per Attendance.
Any materials specifically purchased or manufactured for the order will be charged to the customer, the Customer will be responsible for any transport or other costs incurred in returning the parts to the Company's supplier or to the customers premises and the Administration charge on our Standard Tariff prevailing at the time of cancellation.

5. Estimates

- 5.1. All Estimates must be in Writing from the company and are valid for 30 Days from issue unless otherwise stated.
- 5.2. All estimates whether in writing or verbal are indicative only and are to be general in nature and not to be considered accurate and binding on the company and do not constitute an offer.
- 5.3. We reserve copyright and ownership on diagrams drawings calculations and other documents , these may not be made accessible to third parties or used for any purpose other than the fulfilment of the order without the written consent of the Company

6. Industrial/Intellectual Property

- 6.1. The Company does not warrant that the use by the customer of Goods or the Materials on which Services have been performed will not infringe the copyright, patents, trademarks, trade names, registered designs or other industrial property rights and the customer agrees to fully indemnify the Company in respect of any loss or damage suffered or incurred in respect thereof.

7. Insolvency

- 7.1. If the Customer ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due or, being a company, is deemed to be unable to pay its debts, enters into any arrangement with its creditors, has a receiver or administrator appointed or has a winding up petition issued against it or, being a person, commits an act of bankruptcy, enters into any arrangement with its creditors, or has a bankruptcy petition issued against him or her then, without prejudice to any other rights or remedies the Company may have, it also has :
- 7.1.1. The right to proceed no further with any Order for the Customer and be entitled to be paid for the value of all work carried out (whether completed or not) for all materials including those ordered but not yet delivered and all other costs, including a margin for profit, such charge to be an immediate debt due to it and,
 - 7.1.2. A general lien on all goods and property of the Customer in its possession (whether worked on or not) and be entitled, at the expiration of 14 days Notice in writing, to dispose of such goods and property in such manner and at such price as it thinks fit and to apply the proceeds towards the payment of any sums due from the Customer to it, accounting to the Customer for any surplus.

8. Clerical Errors

- 8.1. The Company reserves the right to correct any clerical errors it may make.

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9. **Delivery and Delay**
- 9.1. Whilst the Company will endeavour to make delivery/collection or perform the Service within the time scale agreed, in respect of any date or time quoted by the Company for collection of the Goods or date and time for collection of the Materials or performance of the Services thereon, time shall not be of the essence. The Company shall not be liable for nor be required to indemnify the Customer from or against any losses, damage, actions, claims or expenses arising directly or indirectly as a result of failure to meet such dates and time.
- 9.2. Agreed Documentation will be delivered electronically after the completion of the physical work. Any further documentation including photographs are not deemed to be part of the deliverables and are not a reason to withhold order numbers or non-payment of invoice.
10. **Force Majeure**
- 10.1. In the event that either party is unable to perform its respective obligations under the Order due to strikes, lockouts, concerted acts of workmen or any cause beyond their reasonable control, then subject to either party affected by such circumstances promptly notifying the other thereof in writing, the performance of the said obligations shall be deferred until such circumstances shall have ceased PROVIDED THAT if such circumstances shall continue for more than 3 months, the company shall be entitled to cancel the Order by notice in writing to that effect. In such case the Customer shall pay the Company in full the price of any goods and/or services supplied.
11. **Limitation of Liability**
- 11.1. The matters stated in Clause 13, 17 and 18 express the sole and total contractual and legal liability of the Company including any liability in negligence or any defects in the Goods supplied or any deficiencies in the Services provided.
- 11.2. In no event shall the Company be liable for nor be required to indemnify the Customer from and against any loss of use, loss of profits or loss of future contracts whether arising directly or indirectly as the result of the Company's breach of contract, negligence or other tort, breach of statutory duty or otherwise.
12. **Law**
- 12.1. The construction, validity and performance of this contract and matters pertaining therein shall be governed in all respects by English Law and shall be enforceable through the courts in England and Wales.
13. **General**
- 13.1. The Company is constantly trying to improve the standards and quality of its Goods and Services and reserves the right to make any change without notice in the materials dimensions and designs of any goods which it thinks reasonable or desirable having regard to all the circumstances without affecting the validity of the Order.
- 13.2. Illustrations, photographs and descriptions whether written or oral, are intended as a general guide only and no reliance should be placed upon them nor shall any legal entitlement arise because of them.
- 13.2.1. The Customer acknowledges that in entering in a Contract for the supply of goods and services it has not been induced by any representations made by the Company, its servants or agents except those included in the quotation relating to the Order.
- 13.3. If expressly specified in writing in the Order, instructions and tests may be allowed at the Company's premises prior to acceptance of any Goods and Services. In such case, except as provided in Clause 17.2 below no claim may be made after collection regarding the quality of the goods or services supplied or performed hereunder.
- 13.4. Nothing in the Order shall be deemed to exclude or restrict the Company's liability in respect of death or personal injury from its negligence within the meaning of S.1 of the Unfair Contract Terms Act 1977.
14. **Title & Risk**
- 14.1. Risk in the Goods shall pass to the Customer on collection or delivery. If collection is delayed through the neglect or default of the Customer for more than seven days of any date agreed for collection or, if no collection date shall have been agreed within seven days of receipt by the Customer of notice that the Goods are ready for collection, risk in the Goods shall pass to the Customer on expiry of the relevant period of seven days as aforesaid and the Company shall be entitled to charge the Customer with the cost of storing the Goods and insuring them against loss or damage.
- 14.2. Claims for damage or loss of goods or work in transit, must be made in writing to the Company and to their carrier within the three days of delivery. Claims for non-delivery and all other matters must be made to the Company in writing within 7 days of delivery of the date of the Company's invoice, whichever shall be the earlier.
- 14.3. The Goods shall remain the sole and absolute property of the Company until such time as the Customer shall have paid in full to the Company the Price in respect of the Order and of all other goods and services supplied to the Customer under any other contract with the Company or otherwise or the Goods are sold to customers by way of bonafide sale at full market value.
The Customer agrees that until such time as property in the Goods shall pass to him as aforesaid:
- 14.3.1. he will store the same in a manner which makes them readily identifiable as the Goods of the Company
- 14.3.2. The Company may recover or resell the Goods or any part thereof and for this may at all reasonable times enter upon any premises where they are stored or where they are reasonably thought to be stored.
- 14.4. Without prejudice to the generality of Clause 14.2 the Customer's right of possession of the Goods shall cease if payment in respect thereof is overdue or if circumstances occur within the meaning of Clause 7 above.
- 14.5. If the Company repossesses the Goods under Clause 14.3 or 14.4 and resells the same, it shall account to the Customer for any proceeds of sale in excess of the aggregate of amounts owed by the Customer to the Company under the Order and any other contract or otherwise and shall be entitled to recover from the proceeds the costs incurred in repossessing and reselling the Goods (including legal costs incurred in connection therewith).
- 14.6. The Customer is licensed by the Company to resell the Goods by way of bonafide sale at full market value before the Company has received payment in full in respect thereof subject to the express conditions that in such an agreement to sell the Customer shall act as the agent of the Company whether the Customer re-sells on his own account or not and that notwithstanding any period of credit agreed in the Order, the Customer shall receive and hold the proceeds of sale in a fiduciary capacity on trust for the Company, who shall be entitled to trace the same into the Customer's bank account or otherwise at the request of the Company; the Customer will assign to the Company all rights relating, to payment against the purchaser of the Goods.
15. **Lien**
- 15.1. Until the Customer shall have paid in full to the Company the price for all the Goods and Services both under this Order and any other Order with the Company, the Company shall have a Lien on all Materials in the Company's possession and may refuse to allow the Customer to collect the same either before or after the services shall have been performed thereon. In the event that any invoice remains unpaid for more than 21 days after the same shall have fallen due the Company shall be entitled to sell the Materials and apply the proceeds towards the settlement of all such unpaid invoices.
16. **Collection**
- 16.1. Unless otherwise agreed, the Goods will be collected by the Customer from the Company's premises specified in the confirmation of order.
- 16.2. The Goods shall be packed in the manufacturer's standard packing (if any). Any further packing required shall be paid for by the Customer

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- 16.3. The Company shall notify the Customer when its performance of the Services on the Materials has been completed and the Customer shall promptly, but in any event within seven days of the date of such notice, collect the Materials, if Materials are left on the Companies premises after the seventh day all risks therein shall pass to the Customer and the Company shall be entitled to charge the Customer with the cost of storing the materials and insuring them against loss or damage.
- 17. Warranty**
- 17.1. In the case of defects in any Goods or parts thereof not manufactured by the Company (including but not limited to proprietary articles such as electrical components , spare parts and other components) the Customer shall be entitled to the benefits, insofar as they may be transferred to the Customer, of any rights which the company may have against the suppliers of such goods or parts thereof, and the Companies liability in such cases is limited to making the benefit of such rights available to the customer to the extent aforesaid.
The benefits of clause 17.1 shall not apply unless Customer has notified Stone Hardy that the equipment is under warranty within 5 days of completion of job
- 17.2. In the case of defects in any Goods, other than those stated in Clause 17.1 the Company shall make good by repair or, at its option, by the supply of a replacement, defects which in proper use appear in the Goods within a period of three months from the date of collection and which arise solely from faulty workmanship supplied or performed by the company. The Customer shall return to the Company, carriage paid, any defective Goods within 7 days.
- 17.3. The benefits of Clause 17.2 shall not apply to:-
- 17.3.1. Defects due to wear and tear, accident, improper adjustment, misuse, dirt or neglect, operational error, corrosion.
 - 17.3.2. Materials which have been :-
 - 17.3.2.1. Altered or added to without the Companies written consent
 - 17.3.2.2. Modified or repaired by non-manufacturer approved repairers
 - 17.3.2.3. Used for Military Purposes
 - 17.3.2.4. Loaded beyond the safe loading weight specified by the Manufacturer
 - 17.3.2.5. Supplied by the Company second hand - In respect of such Goods the Customer must rely on his own inspection as the Company gives no warranties nor makes any representation, either express or implied in respect thereof
- 18. Repairs to Goods**
- 18.1. In the event of any damage caused to the goods for which the Company carries out any repair then any monies paid to the Customer by any other party in consideration for any repair or as a result of the damage will be held on trust by the Customer for the benefit of the Company within 28 days from the date on which the Customer receives the said monies
- 18.2. In the event that at any time the Company undertakes any repair to the goods at the request of the Customer and the said repair arises as a result of the negligence of any party other than the Company then the repair will give rise to a separate agreement between the Company and the Customer that is directly enforceable by the Company against the Customer.
- 18.3. For the avoidance of doubt, where the Customer makes the request to repair the Customer will be deemed to be requesting as principal and not as agent for any other party such that the Customer will be solely responsible to pay the Company for the cost of repair regardless of whether or not the Customer has been paid for the same by the other party.
- 18.4. In the event that the Customer requests any repair and the Company carries out any repair then the Customer shall be directly liable to the Company for the costs incurred by the Company in respect of any repair that the Company may carry out. Accordingly the Customer shall be obliged to pay the Company within 30 days of the completion of the repairs by the Company or within any other period of time as may be specified by the Company in its Terms and Conditions of Repair.
- 19. Customer Materials**
- 19.1. In performing the Services, the Company shall exercise a proper and reasonable degree of care and skill, should a shortfall in this standard occur which either causes the Materials to be damaged or to be otherwise unfit for their intended purpose then the Company shall repair or, at its option, replace at its own cost such materials and re-perform the services thereon at no extra charge to the Customer
- Or
- 19.1.2. causes or damage to other property or injury to persons the Company shall indemnify the Customer against all such loss or expense as may arise there from up to an aggregate limit for any one accident causing such damage or injury (or series of accidents originating from such cause) of £1million
- 19.2. SUBJECT TO clause 18.4 above, in all other respects although the Company will take reasonable care of materials supplied by the Customer, they will otherwise be held at the Company's premises at the customer's risk. Liability under sub-Clause 16.4 shall only apply either to deficiencies in the Services discovered or to accidents occurring within a reasonable time of the Materials collected by the Customer and in no event more than 10 days thereafter.
- 19.3. Materials supplied or specified by the Customer may be rejected by the Company if it considers them to be unsuitable and the Customer will pay for all costs incurred by the Company if materials supplied or specified to it are found to be unsuitable during the performance of the Services.
- 19.4. The Company shall not be responsible or liable for any loss or damage for imperfect work arising from defects in or the unsuitability of any Material supplied or specified by the Customer.
- 20. Sub-Contractors.**
- 20.1. The Company reserves the right, without prior notification to the Customer, to sub-contact part or all of the Services and the customer agrees to accept any additional direct costs incurred and handling charges
- 21. Legal Costs**
- 21.1. In the event of legal action being taken by the Company against the Customer for breach of payment obligations, the Customer shall be responsible for the payment of all the Company's costs and disbursements in that action, including interest in accordance with Clause 3.2 above on a full indemnity basis.

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