

# Eff Manufacturing Ltd Terms & Conditions

1. **Definitions**
- 1.1 The "Company" shall mean Eff Manufacturing Limited.
- 1.2 "Goods" shall mean plant equipment or material of any kind including any form of services provided by the Company.
- 1.3 Delivery of Goods shall be deemed to take place when the goods arrive at the customer's premises or designated site ready for unloading.
2. **Formation of Contract**

An order placed by the customer on the Company shall constitute only an offer to contract with the Company and shall only become binding on the Company if and when acknowledged and confirmed by the Company in writing.
3. **Company's Terms and Conditions Prevail**

No additional waiver variation or departure to or from these Terms and Conditions shall be effective and binding on the Company unless expressly agreed to in writing.
4. **Extent of Contract**
- 4.1 The Company's obligations to supply Goods and services to the customer are limited to those expressly described or referred to in the Company's confirmation of acceptance of the customer's order.
- 4.2 Weights, measurements and other descriptive particulars of Goods or services offered or contracted for by the Company are stated in good faith but minor deviations there from shall not constitute a breach of contract on the part of the Company or otherwise render the Company liable to the customer.
- 4.3 Figures or statements relating to the capacity or performance of Goods offered or contracted for by the Company are such as the Company expects to achieve, but the Company shall not be liable for any failure to achieve such figures or comply with such statements unless the same have been expressly guaranteed by the Company as part of the written terms of the contract between the Company and the customer. Where any such guarantee is given and the goods fail to comply therewith, the Company shall be entitled to reasonable time and facilities to enable it to correct such failure. Under no circumstance will the Company fund repairs or replacements by the customer or any third party instructed by the customer unless previously agreed in writing by the Company.
- 4.4 Goods are designed by the Company to meet any loading characteristics specifically required by the contract or those which are generally acceptable for the usage stated by the customer for the Goods. The Company shall not have any liability whatsoever in respect of any Goods which are at any time:
  - (a) Subjected to loading stresses which are abnormal or in excess of those stated in the contract.
  - (b) Put to any usage other than that stated or implied by the customer.
  - (c) Used in a different configuration from that designed by the Company.
  - (d) Subjected to loading stresses caused by the use of mechanical handling equipment.
- 4.5 Except insofar as may be guaranteed in the written terms of the contract between the Company and the customer, the Company makes no representation and gives no warranty that Goods offered or contracted for will be suitable for or capable of use in combination or conjunction with any other goods whether supplied by the Company or not.
- 4.6 Tests which under the terms of the contract between the Company and the customer are to be made on site will be at the customer's expense unless otherwise agreed in writing by the Company.
5. **Payment Terms**
- 5.1 Material. Invoiced amounts fall due for payment 14 days after the date of delivery of material unless otherwise specified in the order acceptance confirmation or other authorised written agreements.
- 5.2 Erection/Installation. Invoiced amounts fall due for payment 14 days after completion of work as advised by the Installer unless otherwise specified in the order acceptance confirmation or other authorised written agreements.
- 5.3 The payment terms specified in Clauses 5.1 and 5.2 are conditional upon the receipt by the Company of satisfactory trade and banker's references prior to the delivery of the Goods. If satisfactory references are not forthcoming the Company reserves the right to require payment of the contract price prior to the delivery of the Goods or provision of services.
- 5.4 If payment falls outside the 30 day period, interest will be charged at 2.5% per month.
6. **Price and Price Variations**
- 6.1 All prices quoted or agreed by the Company shall be dependent on and subject to variation in the event of:-
  - (a) Fluctuations in direct or indirect costs and in particular the availability of materials and labour.
  - (b) Overtime work and work outside normal hours being required to complete a contract as a result of delays due to, in the opinion of the Company, unsatisfactory site conditions not previously disclosed and detailed in the quotations.
  - (c) Necessary instructions and/or information not being provided by the customer when requested.
  - (d) Extra work being needed which is not expressly covered by the contract specification but is necessary for the due provisions of the Goods and/or services contracted for.
  - (e) Mistakes and/or omissions in the contract specifications.
  - (f) Special expedition in the completion of a contract at the request of the customer.
  - (g) Other matters of any kind outside the control of the Company
- 6.2 The customer shall pay extra charges in the event of:-
  - (a) The customer or his agents failing or refusing to take immediate delivery of Goods tendered for delivery or delivery being abortive for any other reason not being the fault of the Company, as a result thereof such Goods have to be redelivered.
  - (b) Goods ordered by a customer having to be stored or held by the Company beyond the date of readiness for delivery notified to the customer or his agents or beyond the date when they were first tendered for delivery, whether at the request of the customer or his agents or by reason of lack of adequate instructions or information from the customer or his agents or by reason of any other matters outside the control of the Company.
  - (c) Erection or installation work being interrupted delayed or frustrated by reason of any other matter outside the control of the Company.
- 6.3 In the event of any of the circumstances envisaged in Clause 6.2(c) arising it shall be for the company alone to decide at its sole discretion whether to maintain personnel on site or to withdraw some or all of such personnel until such time as the Company is able to proceed regularly and freely with such work.
- 6.4 Where delivery of Goods has been prevented or delayed by reason of any of the matters referred to in Clauses 6.2(a) or 6.2(b) above the price of such goods, or the balance thereof, shall become due and payable 30 days after such goods were first tendered for delivery or first notified to the customer as being ready for deliver whichever shall be the earlier.
- 6.5 Where Goods have been delivered to the customer's premises or to site but erection/installation thereof has been affected by any of the matters referred to in Clause 6.2(c) above the price of such Goods, or the balance thereof, shall become due and payable 30 days after delivery as aforesaid.
- 6.6 The Company reserves the right to postpone the delivery of Goods under this or any other contract if any amounts due on this or any other contract remain unpaid at the due date or dates. The customer shall be liable for any increased costs incurred by the Company as a result of any such postponement.

- 6.7 Once order acceptance has been confirmed by the Company the order becomes binding on the customer and the Company reserves the right to refuse to accept subsequent cancellation of the order or amendment to it by the customer. Should the Company accept the requested cancellation or amendment the customer is liable for and to pay on demand an amount which, in the opinion of the Company, reflects the proportion of the order already completed plus any additional costs incurred for which the Company has a liability resulting from the placement and processing of the order, or in the case of amendment to the order all costs incurred in implementing the amendment plus any loss of or incremental profit incurred. Confirmation of the order is effective from the date of the formal order acceptance confirmation document.
- 6.8 Unless otherwise stated all prices quoted are net ex-works exclusive of VAT.
- 6.9 The customer shall have no right of set off, or deduction, whether statutory or otherwise.
7. **Delivery Dates**
- 7.1 The Company will endeavour to comply with dates or periods quoted to the customer for delivery of Goods and/or the erection/installation thereof or for the supply of services however any such dates or periods shall be estimates only and the customer shall have no claim whatever against the Company in the event of the Company's failure to comply with any such date or period.
- 7.2 Unless the Company has contracted to the customer to provide the service the customer must, at his own cost, provide sufficient labour and material handling equipment to off-load material deliveries and at such a rate as to minimise delivery vehicle standing time.
- 7.3 The customer is liable to pay a charge levied by the Company if, in the opinion of the Company, vehicle unloading is delayed due to causes outside the control of the Company. The charge will reflect the amount of time the vehicle is on site measured from the time of arrival until the time of departure less an estimated time for unloading and meal breaks.
8. **Reserve of Title**
- 8.1 Notwithstanding risk in the Goods passing in accordance with clause 12 hereof, title in the goods shall not pass to the customer until payment has been received by the Company for the Goods and no other amounts are then outstanding from the customer to the Company in respect of other Goods or services supplied by the Company.
- 8.2 The customer will allow free access by the Company to the customer's premises or its customer's premises, at all locations at all times to inspect and, if so desired, to return material for which payment is due to the Company.
9. **Preparatory and Ancillary Matters in Contracts Involving Erection/Installation**  
Before any Goods are erected/installed by the Company, the customer shall at its own expense and responsibility:-
- (a) Carry out all such works as may be necessary in order to prepare the site for the receipt of the Goods, and the effective erection/installation thereof including in particular the provision of a level even and sound floor, of sufficient load bearing capacity to allow safe usage of the proposed storage system, power, light, water and other services, suitable unloading lifting and scaffolding facilities, continuous and unobstructed access to the site, and suitable and secure waterproof storage and protection facilities for Goods awaiting erection/installation and for the Company's plant equipment tools and materials required in connection with such erection/installation.
- (b) Provide all health and welfare facilities currently required by law or otherwise reasonably necessary for the benefit of the employees of the Company or of subcontractors engaged at or about the site in the performance of the contract.
- (c) Obtain all necessary statutory or other consents and approvals.
10. **Property and Risk**  
The risk of loss or damage, howsoever caused, to Goods supplied by the Company shall pass to the customer on delivery thereof whether or not such Goods are thereafter to be erected/installed by the Company. It is the customer's responsibility to ensure that his agents or representatives attend the site or the delivery point at the time of delivery to ensure the satisfactory receipt of the Goods and to give a written acknowledgment thereof. The customer shall ensure that he has adequate insurance cover against All Risks of Loss or Damage as set out in a Contractor's All Risks Policy of the usual kind to cover the Goods.
11. **Damage in Transport**
- 11.1 Provided that the customer complies strictly with the provisions of Clause 11.2 and subject to the provisions of Clauses 11.3 and 11.4 hereof the Company will at its option either replace, repair or reinstate any Goods supplied by the Company which are received by the customer in damaged condition, and will reimburse the customer for any expense reasonably incurred under Clause 11.2(b) below.
- 11.2 The customer shall:-
- (a) In every case advise the Company in writing within 3 days of delivery of any damage to the Goods and of the precise nature and extent of the damage.
- (b) Where Goods are so damaged as to render them unserviceable, return the same to the Company, properly packed, protected and insured and consigned at the customer's expense within 14 days of receipt (ie the delivery date).
- 11.3 It shall be for the customer to satisfy the Company that the damage to the Goods in question did not occur after delivery of such Goods to the customer's premises or site.
- 11.4 The customer shall make available for the inspection of the Company all relevant documentation and shall permit the Company to interview and question such of the customer's personnel as the Company may reasonably require.
12. **Liability for Accidents and Damage**  
The Company will indemnify the customer against damage or injury to his property or person or that of others occurring while the Company is present on the site pursuant to the contract to the extent directly caused by the negligence of the Company, its sub-contractors or agents but not otherwise by making good such damage to property or compensating personal injury. Provided that:-
- (a) The Company's total liability for damage to the customer's property shall not exceed £50,000.
- (b) The Company shall not be liable to the customer for loss of profit or of contracts or, save as aforesaid, for any loss or damage of any kind whatsoever.
- Nothing in this clause shall be deemed to exclude or restrict the Company's liability for death or personal injury resulting from negligence. The Company is willing to undertake liability additional to the provided by this clause in exchange for a higher price. Nothing in this contract shall affect the statutory rights of a consumer.
13. **Warranties**
- 13.1 Provided that written notice of the defect in question is received by the Company within 7 days of the first occurrence thereof the Company warrants and undertakes:-
- (a) That if at any time within 3 months of delivery of Goods to the customer any defect occurs therein which is in the opinion of the Company directly attributable to a defect in design material or workmanship for which the Company is responsible, the Company will make good such defect by repair or at the Company's option by the supply of a replacement part free of charge. Any defective part so replaced will become the Company's property.
- (b) That if at any time there occurs in Goods supplied by the Company any defect which is directly attributable to a defect in design, material or workmanship the responsibility not of the Company but of a supplier or sub-contractor to the Company, the Company will use its best endeavours to obtain for the customer the benefit of any warranty which may have been given by such supplier or sub-contractor in respect of such defect, provided always that the Company shall not be obliged to institute legal proceedings of any kind, including arbitration, or otherwise incur legal costs or expenses of any kind hereunder the Company specifically repudiates any such liability. The Company specifically repudiates any such liability.

- 13.2 The Company's liability under this Clause 13 shall be in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of the Goods, and save as provided in this Clause 13, the Company shall not be under any liability, whether in contract, tort or otherwise, in respect of Goods which have been delivered or for any injury (other than personal injury caused by the negligence of the Company as defined in Section 1 of the Unfair Contract Terms Act 1977) **damage or loss resulting from such defects or from any work done in connection therewith.**
- 14. Frustration**  
The Company shall be released from all liability under the contract between the Company and to the customer whenever and to the extent that the fulfilment thereof is frustrated, prevented or delayed for a period of more than 3 months by reason of:-
- (a) The effect of any statute, rule, regulation, order, directive or recommendation issued by any Government, Government Department or other competent authority.
- (b) The inability of the Company to obtain or renew any requisite authorisation or licence.
- (c) The non-availability of suitable material or labour or of necessary power or other services.
- 15. Property In and Confidentiality of Information Supplied by the Company**
- 15.1 The copyright in all drawings, plans, specifications, design and other written, printed or graphic material supplied or made available for inspection by the Company or the Company's suppliers or sub-contractors shall not be divulged or used save only for immediate and legitimate purposes by the customer without the express prior written consent of the Company.
- 15.2 In products for which computer software is supplied the copyright to that software and any subsequent amendments is reserved. Neither the documentation nor the software may be copied, photocopied, reproduced to any electronic medium or machine readable form, in whole or in part without the express prior written consent of the Company.
- 16. Force Majeure**  
The Company shall not be liable to the customer for any loss, damage, delay or default occasioned by reason of any Act of God, strike, labour dispute, fire, flood, war, public disaster, or any other cause or reason beyond the control of the Company. The terms of this contract shall be extended by a reasonable period in the event thereof.
- 17. Disputes and Governing Law**
- 17.1 If at any time any questions, dispute or differences whatsoever shall arise between the customer and the Company out of or in relation to or in connection with any contract between the customer and the Company whether during or after completion, either may give to the other written notice of the existence of such questions, dispute or difference and such matter shall be and hereby is referred to the arbitration of the President for the time being of the Institution of Mechanical Engineers or such person as he may appoint. Such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1950 and any statutory modification and re-enactment thereof as may be in force. No payment due by the customer to the Company shall be withheld on account of any such pending arbitration.
- 17.2 If for any reason such question, dispute or difference does not proceed to arbitration the courts of England shall have sole jurisdiction thereover and in relation thereto Amend to allow for injunctory relief
- 17.3 All contracts between the Company and the customer shall in all respects be construed and governed in accordance with English law.  
April 2021

## **Terms of Use Intellectual Property and Price Lists** April 2021

These terms govern your use of our price lists and marketing literature, drawings, designs, patents, images, logos, trademarks registered or unregistered, copyright and trade secrets.

By using our materials you agree to abide by the following terms that are in addition to our standard terms and conditions. English Law applies.

- IP1 All pricing and other data is confidential and will not be divulged to any third party.
- IP2 Pricing will not be used to negotiate reductions from any third party manufacturer or distributor for similar products.
- IP3 You agree to where you are not legally prevented from doing so to advise us of competitor pricing where our prices are seen by you to be uncompetitive and give the company opportunity to price match.
- IP4 You shall not use any registered or unregistered trademark of Asset Protection Ltd as licenced by Eff Manufacturing Limited except in relation to genuine product and accessories manufactured and or marketed by Eff Manufacturing Limited using the trademarks.
- IP5 You acknowledge our trademarks to include marks for which Eff Manufacturing acts as agent for the trademark owner, including but not limited to, The Spur logo, Steel-Lok, Strongbeam, Zamba, Eland, Prostore, Eff, Spur and Spur Shelving and any other mark in use added to or acquired by the company.
- IP6 You will not in any case substitute other product for Eff Manufacturing Ltd product where there is any possibility, as judged by Eff Manufacturing Ltd that the customer has been lead to that product by the use of 'the trademarks' or where 'the trademarks' has been searched for leading to the product shown.
- IP7 The company reserves the right to require you to cease the use of 'any of Asset Protection and Licencing Ltd Intellectual Property as licenced by Eff Manufacturing Ltd and any Eff Manufacturing Intellectual Property' where in the companies view the use is seen as detrimental to either the brands or the market place.
- IP8 You acknowledge that all products contain design right registered or otherwise and that patents may apply. You agree on no occasion to seek to copy or produce products that may in any way contravene those rights and to report any such incident where you are offered products where you are advised that, the features are either identical or compatible with the companies products products.
- IP9 In the event of dispute with a third party you agree to provide all information in respect of the use of 'infringement', and the products sold or offered in substitution.
- IP10 Any compensation will be on the basis of selling price minus input materials and labour excluding general overhead, price diminution and damage to the investment value of the trademark.
- IP11 Where you assist with the reporting of infringement or activity with infringement we may agree to pay a percentage of any compensation paid.

IP12 In the event of dispute you agree to enter into mediation at the first opportunity using a Mediator from the Mediation and Arbitration Chambers <http://www.arbdb.com> at your cost.