

# Terms and Conditions

Revision 3 – 16/05/2017

## Definitions:

- The Company: Safety Devices Int'l Ltd (Cambridge House, Holborn Avenue, Mildenhall, Suffolk, IP28 7AN, UK) trading as Protection and Performance
- The Buyer: The party contracting to purchase the goods and / or services.
- The Fitting Agency: The duly accredited company appointed by Safety Devices to supply and / or install goods and / or services.
- The Goods: Any product manufactured and / or supplied by The Company.
- The Services: Any action undertaken in relation to products manufactured and / or supplied by The Company either directly by The Company or by its appointed Fitting Agency.

## 1. Application

- a. Unless otherwise stated and agreed in writing by The Company, these conditions will supersede any previous conditions appearing in The Company's quotations or elsewhere and shall take precedence over any terms and conditions stipulated, incorporated or referred to by The Buyer and / or The Fitting Agency. No conduct or action by The Company can be deemed to constitute acceptance of any terms put forward by The Buyer and / or The Fitting Agency and these terms and conditions constitute the only terms and conditions upon which The Company will supply and / or install goods and / or services.

## 2. Design and Specifications

- a. The specifications and designs of the Company, which shall include illustrations, drawings, weights and dimensions are subject to modification, improvement or any other change required to conform with any applicable safety or other statutory requirement, unless expressly stated otherwise.
- b. The Company reserves the right to improve or modify any of the goods without prior notice, provided that details of any modification affecting form, fit function or maintenance shall be notified to the Buyer and / or The Fitting Agency.
- c. Where goods or services are supplied to the Buyers own specification, pattern or design, the Buyer warrants to and undertakes with the Company for full responsibility not only for the suitability and fitness of the specification, pattern or design but also that such specification, pattern or design does not infringe any patent, trade mark, registered design, copyright or any other proprietary right and shall indemnify the Company in full for any loss, damage or expense whatsoever, including costs, which the Company may incur in the performance of the Contract.
- d. The Buyer shall provide all necessary specifications within a sufficient time to enable the Company to perform the contract in accordance with its terms.

- e. The Buyer or Fitting Agency agrees that it shall not disclose to any third party any of the information relating to the Company's specifications without the prior written consent of the Company or the party in whom title and copyright is vested.
- f. Unless specifically stated, The Company has not assessed the purpose/role/safety/condition of any vehicle/s (or any other use) for which goods may be supplied. The Company therefore does not advise as to the appropriateness of the use of goods.

### **3. Quotations**

- a. Any quotation or estimate made by or on behalf of the Company whether in writing and / or verbal is an invitation only to the Buyer for him to make an offer and no order in pursuance of any quotation or estimate shall be binding upon the Company unless and until such order is accepted by the Company in writing on its standard acknowledgement of order form.
- b. Unless previously withdrawn or modified in writing by the Company, quotations made by the Company are valid for sixty days from the date of the quotation. The Company reserves the right to withdraw or cancel any quotation at any time before acceptance without notice.
- c. In the event of the Company entering into a contract without having submitted a written quotation or standard acknowledgement of order form, then all goods and services supplied and work done shall be subject to these conditions.

### **4. Representations**

- a. Any representations made to the formation of the contract including any literature, descriptions, specifications, oral or written statements or any combination are acknowledged not to have been relied upon by the Buyer in entering into the contract with the Company.

### **5. Price**

- a. The price quoted for the Goods or Services is exclusive of value added tax or any other fiscal duties, which will be added to the invoice at the rate prevailing at the time of invoice.
- b. In the event of any increase in cost to the Company of raw materials, labour, overheads or the increase in taxes or duties or any variation in exchange rate the Company may increase the price payable.
- c. If for any reason outside the control of the Company, overtime charges are incurred; the Buyer shall be responsible for such charges.

### **6. Payment**

- a. Terms of payment for holders of duly authorised credit accounts with the Company shall be net cash thirty days unless otherwise specified in writing by the Company. If payment is not made by the due date, the Company may at its option either suspend all further deliveries until the default is made good

or cancel the order so far as any goods remain to be delivered. The Company reserves the right to resell the goods if payment is not made on the due date.

- b. Non account holders may pay by cash, cheque or credit card prior to release of the Goods or Service. Payment by cheque shall not constitute payment until the cheque is honoured.
- c. The Company reserves the right to charge interest at the Barclays Bank PLC lending rate from time to time in force plus four percent on all overdue accounts, such interest accruing on a day-to-day basis.
- d. The Buyer shall not be entitled to make any deduction from the price in respect of any set off or counterclaims unless agreed in writing by the Company.
- e. Defects in quality or dimensions in any delivery shall not be a ground for cancellation of the remainder of the order or contract.
- f. Fitting Agencies shall not release Goods and / or Services to the Buyer until clearance has been authorised by the Company.

## **7. Delivery**

- a. Any time or date named by the Company for delivery and / or installation of Goods and / or Services is an estimate only and the Company shall not be liable for any loss, consequential loss or damage whether arising directly or indirectly out of any delay.
- b. Delivery shall be taken by the Buyer within the period (if any) named in the quotation or order acknowledgement. The Buyer shall provide such instructions as may be necessary (or required by the Company) to enable delivery to be made within the period. If for any reason the Buyer is unable to accept the Goods and / or Services when ready the Company shall, if conditions permit store the Goods and take all reasonable steps to prevent their deterioration until the Buyer is able to accept delivery. In this case the Buyer shall be liable to the Company for the reasonable costs, including insurance, of so doing. This provision shall be in addition to any other payment or damages for which the Buyer may become liable in respect of his failure to take delivery at the appropriate date.
- c. The Company insurance cover is otherwise valid until delivery is made to the Buyer's or Fitting Agency's premises. Off -loading is the responsibility of the Fitting Agency or the Buyer. The Buyer or Fitting Agency will be required to provide any necessary mechanical handling equipment.

## **8. Loss or Damage in Transit**

- a. The Company will entertain a claim by the Buyer (or Fitting Agency) in respect of loss or damage in transit to the location nominated by the Buyer (or Fitting Agency) only if:
  - i. The Buyer and / or Fitting Agency gives written notice to the Company within twenty-one days after the Company's order acknowledgement or other notification of despatch of the Goods, in the case of non-delivery.

- ii. The Buyer and/ or the Fitting Agency shall inspect the Goods immediately upon arrival and shall inform the Company (or the carrier where delivery is not made on the Company's own transport) in writing within three days of any shortage or damage. A detailed claim in writing should follow within ten days of receipt of the Goods. No claims will be entertained unless the requisite notice is given.

## **9. Notice**

- a. Any notice to be given by the Company shall be sufficiently given if sent by post addressed to the usual place of business or domicile of the Buyer (or Fitting Agency) and shall be deemed to have been received two days after it was posted.

## **10. Acceptance**

- a. The Buyer (or Fitting Agency) shall inspect the Goods immediately upon arrival and shall notify the Company in writing within three days of any matter or thing whereby the Goods are not in accordance with the contract. If the Buyer (or Fitting Agency) shall fail to give such notice the Goods shall be deemed to be in all respects in accordance with the contract and the Buyer (or Fitting Agency) shall be bound to accept and pay for the same accordingly.

## **11. Force Majeure**

- a. The Company shall not be under any liability of any kind for non-performance in whole or in part of its obligations under the contract due to acts of God, acts of the Buyer, acts of the Fitting Agency or other third party, war, insurrection, government regulations, embargoes, strikes, labour disputes, illness, flood, fire, tempest, delay in delivery to the Company or shortage of any goods or materials or other causes beyond the control of the Company. In any such event the Company may, without liability, cancel or vary the terms of the contract for a period at least equal to the time lost by reason of such event.

## **12. Retention of Title**

- a. The Goods and / or Services shall remain the property of the Company until the Buyer has paid all sums due on it to the Company.
- b. Although the Goods and / or Services remain the property of the Company until paid for they shall be at the Buyer's risk from the time of delivery and the Buyer shall insure them against loss and / or damage accordingly and in the event of such loss or damage shall hold the proceeds of such insurance on behalf of the Buyer as trustee of the Company.
- c. Goods consigned to a Fitting Agency remain the property of the Company and shall not become the property of a Fitting Agency but should be covered by insurance as in 12b.) above. Clauses 12e and 12f shall also apply to Goods held at Fitting Agencies.
- d. The Buyer's right to possession of the Goods and / or Services shall cease if;

- i. the Buyer has not paid for the Goods and / or Services in full by the expiry of any credit period allowed by the Company.
- ii. the Buyer is declared bankrupt or makes any proposal to his creditors for a composition or other voluntary arrangement.
- iii. a Receiver, Liquidator or Administrator is appointed in respect of the Buyer's business.

On cessation of the Buyer's right to possession of the Goods and / or Services in accordance with this clause the Buyer shall at his own expense make the Goods and / or Services available to the Company and allow the Company to repossess them.

- e. The Buyer (or Fitting Agency) hereby grants the Company its agents and employees an irrevocable licence (such licence to subsist notwithstanding termination of the contract for any reason) to enter any premises where the Goods and / or Services are stored in order to repossess them or inspect them at any time.
- f. The Buyer hereby agrees that the Company shall at any time be entitled to appropriate any payment made by the Buyer in respect of the Goods and / or Services in settlement of such invoices or accounts in respect of the Goods and / or Services as the Company in its absolute discretion think fit notwithstanding any purported claim appropriate to the contrary by the Buyer.

### **13. Buyers Property**

- a. In the event of any goods, materials, plant, equipment, vehicles, or any other property being supplied by or on behalf of the Buyer to the Company or its Fitting Agency for carrying out the contract either at the Company's premises or elsewhere such property shall remain at the Buyers risk at all times whilst it is in the Company's premises or in transit to and from its premises or otherwise under its control. The Company will not be responsible for any loss or damage unless such damage or loss is directly due to the negligence of the Company, its servants or agents and in any event the Company's liability shall be limited to the replacement or repair of the property. Under no circumstances whatsoever will the Company be liable for any consequential loss or damage arising.

### **14. Warranty**

- a. The Company shall be entitled at its option to either replace, repair or issue a credit to the Buyer for any Goods found to be defective by reason of faulty materials or poor workmanship provided that:
  - i. the Company is notified in writing within fourteen days of the discovery of any such defects by the Buyer.
  - ii. the defective Goods are returned to the Company carriage paid by the Buyer.

- iii. examination by the Company of such goods shall disclose to its satisfaction that such defects have not been caused by misuse, neglect, improper installation, improper repair, alteration or accident.
  - iv. the Goods represented by the Buyer to be defective shall not form the subject of any claim for work done by the Buyer or for any loss, damage or expense whatsoever arising directly or indirectly from such defects.
- b. Where the Buyer undertakes installation or fitting of the Goods he shall accept that the final integrity of the system is subject to the quality of the installation and / or the integrity of the supporting structure and is outside the control of the Company.
- c. The Company shall not be responsible for damage, injury or loss of any kind whatsoever to any persons or property howsoever caused arising in connection or use of any Goods supplied or generally in connection with or arising out of the installation of the Goods.
- d. Where goods or materials are not manufactured by the Company and are delivered direct to the Buyer or collected by the Buyer from the manufacturer, the Company shall not be liable for any loss or damage to the goods or materials.
- e. Where goods or materials are supplied by the Company but manufactured by a third party, the Company shall use its reasonable endeavours to pass on to the Buyer such benefits relating to warranties in respect of or guarantees of such goods and materials which the Company has under its contract with such a third party but not so as to impose a greater liability on the Company than that imposed by clause 14a.
- f. Seat belt retractors only shall be covered on a parts and labour basis for a period of twelve months from the date of first installation.
- g. These warranties are given instead of and exclude all other express or implied conditions, warranties or other contractual undertakings concerned with:
- i. the condition or quality of the Goods.
  - ii. their fitness for any particular purpose.
- h. The link to the Consumer Online Dispute Resolution platform webpage is as follows:  
<http://ec.europa.eu/consumers/odr/>
- i. a copy of our Quality Policy is available upon request - please contact [info@safetydevices.com](mailto:info@safetydevices.com)

## 15. Assignment

- a. The Company reserves the right to assign, sub contract or sub-let the fulfilment of the contract or any part thereof.

- b. The benefit of the contract shall not be assigned to by the Buyer (or the Fitting Agency) to any third party without the prior written consent of the company.

#### **16. Finance**

- a. At the request of the Buyer made not later than ten working days after the date of the order, the Company will consider the sale of the Goods and / or Services to a finance company approved by the Company at the price and upon these conditions for the purpose of enabling such finance company to let the Goods on hire purchase or lease to the Buyer.
- b. The Buyers liability to the Company for payment of the price shall then be deferred until either the expiration twenty-one days from the date of submission of request for finance to the finance company or offer of finance whichever is the earlier. If the finance company agree to fund the Goods and / or Services the Company shall receive from the finance company a sum equivalent to the price payable less only any deposit which may have been paid by the Buyer directly to the Company.

#### **17. Law and Jurisdiction**

- a. The contract shall be governed by and construed in all respects in accordance with English Law.
- b. The Buyer (or Fitting Agency) on entering into the contract submits to the exclusive jurisdiction of the English courts.
- c. The condition headings are inserted for convenience only and shall not affect the construction of these conditions.