

STANDARD CONDITIONS FOR WORK AND SERVICES PROVIDED BY THE METAL FINISHING INDUSTRY

- General.** Quotations are given and orders for work and services are accepted subject only to the following Conditions. Any Conditions which you seek to impose will be inapplicable unless expressly accepted in writing signed by one of our Directors.
- Quotations.** Unless previously withdrawn, a quotation is open for acceptance within the period stated therein, or when no period is so stated, within 14 days only after its date. Oral quotations are for guidance only and are not binding upon us. Written quotations will not normally be submitted, and in any event will not be binding upon us, unless any necessary drawings and specifications have first been submitted to us in writing and, where we deem it necessary, sample components provided to us.
- Acceptance.** Notwithstanding the receipt by us from you of an order or of an acceptance of our quotation, such order or acceptance shall not be binding upon us until confirmed by us by our forwarding to you our form of acknowledgement or order incorporating these Conditions.
- Advertising Matter.** Specification, descriptions and illustrations contained in our catalogues, brochures or other advertisement matter are intended to give only a general idea of the goods, work or services concerned and none of these shall form part of the Contract.
- Delivery.** Any times quoted for despatch or delivery are estimates only not involving us in any liability for failure to despatch or deliver within such time, and are in all cases to date from receipt by us of your written order to proceed and of all necessary information to enable us to put the work in hand. The time for despatch or delivery shall be extended by a reasonable period if delay in despatch or delivery is caused by instructions or lack of instructions from you or by industrial dispute or by any cause beyond our reasonable control. Any despatch dates given in our quotation or our acknowledgement or order are subject to confirmation upon receipt from you of a definite date for receipt of goods into our works for processing.
- Payment.** (a) The prices quoted or given in our acknowledgement of order are strictly net and exclusive of Value Added Tax. Payment shall be due, together with the costs (if any) of carriage, packing and any special tests, certification or other specific requirements not included in the price on or before the last day of the month following the month of despatch of the goods or of notification that the goods are ready for collection where delivery is to be ex-works.
(b) Interest at the rate of 1% per month and proportionately for part of a month shall accrue on all overdue payments.
- Prices.** If by reason of any increase in the rates of wages payable to labour or in the cost of material, fuel, gas, electricity, insurance, transport or other services or of confirming to such laws, orders, regulations and bye-laws as are applicable to the work or apply to or affect us in the performance of our obligations under the Contract, above the rates and costs ruling at the date of our acknowledgement of order, the cost to us of performing our obligations under the Contract shall be increased, we may give notice in writing to you increasing the contract price to such amount as is stated in the notice. Any increased price shall be payable as from the date of the notice as if it were the original contract price, and a price so increased may from time to time subsequently be further increased in similar manner. Provided, however, that if within 8 days after receipt of any such notice, you give notice in writing to us to cancel the balance of the Contract, we shall be entitled to complete and charge for any such articles as we have begun to treat at the time of receipt of notice from you are the price prevailing immediately prior to the date when notice of increase was given.
- Lien.** For so long as any account remains unpaid we shall have an absolute right of lien upon any of your goods that may be in our possession or under our control and we may enforce such lien whenever and to the extent that any payment is three months' overdue without previous notice to you.
- Standards.** (a) Unless otherwise agreed in writing the quality and finish of work shall be such as will provide a reasonable service in compliance with the generally recognised standards in the trade for the class of work, type, quality and finish of the product concerned.
(b) We can accept no liability under paragraph (a) of this clause (whether any defect is apparent on inspection or not) unless a written claim is made within 14 days of the receipt of the goods stating the alleged defect in standard or in quality of work or finish whereby the goods are not in accordance with the Contract and a reasonable number of articles exhibiting the defect or defects complained of is or are apparent are forwarded to us for inspection within the said period and we are given the opportunity to remedy any such defect or defects. Our liability hereunder (if any) shall in all cases be limited in accordance with the provisions of clauses 13 and 20 hereof.
- Tests.** Our products and work are carefully inspected and where applicable submitted to standard tests before despatch. Special tests not identified in our acknowledgement of order will be charged for. In the case of destructive tests such as hardness and adhesion, these would include the provision of suitable test pieces and their processing but will not be carried out unless we are specifically instructed to do so in identified batches. In such cases, provision of agreed suitable test pieces will be your responsibility unless otherwise agreed.
- Performance.** We will accept no liability for failure to attain any performance figures quoted by us unless we have specifically guaranteed them in the Contract. If the performance figures obtained on any test provided for in the Contract are outside the acceptance limits specified therein, you will be entitled to reject the goods, but before rejecting the goods and claiming, within the provisions of clause 20, you will give us reasonable time and opportunity to rectify their performance. You assume responsibility that processes stipulated by you are sufficient and suitable for your purposes save insofar as your stipulations are in accordance with our advice.
- Matching.** We shall be under no obligation to ensure that any goods or components or parts are an exact match or that one batch exactly matches another, whether the colour or finish are defined by reference to a sample or by description. Where a colour or finish is specified in the Contract by reference to a sample or description, you shall accept as complying with the Contract all parts which are a commercial match with the sample or correspond with the description, as the case may be, and a commercial match with each other in accordance with the standard generally recognised in the trade. We shall be under no liability for any failure to provide a commercial match if failure is due wholly or partly to differences in the materials from which the respective goods, components, or parts are made or to any process or treatment to which the same have previously been submitted.
- Defects.** We shall be under no liability howsoever arising in respect of any defects appearing in any goods, components or parts (including failure to provide colour matching between different batches) at any time which is due or partly due to the material of which the same is made, its design or method of manufacture, or any process or treatment applied thereto by any person other than ourselves.
We undertake to make good free of charge any defects which, under proper use, appear in goods, components or parts the subject of the Contract within a period of six months after leaving our works or half their average working life whichever is the shorter, and which are due to faulty materials, workmanship or design (other than materials or workmanship or design provided or specified by you) provided there has been no maltreatment thereof and provided further that we are notified in writing immediately such defects appear and the defective parts are returned to us for rectification.
This undertaking shall be accepted by you in lieu of any warranty or condition implied by law as to the quality or fitness for any particular purpose of such goods, components and parts or as to the manner in which work is done and save as provided in the clause we shall be under no liability, whether for breach of contract or of statutory duty, in tort (including but not limited to negligence) or otherwise in respect of any defects therein or for any service or advice in relation thereto or for any injury (other than death or personal injury caused by negligence on our part as defined in the Unfair Contract Terms Act, 1977) or for any loss or damage resulting from such defects or from any work done in connection therewith.
- Export Contracts.** In the case of goods or work for export we will give you reasonable opportunity to inspect and test the same at our works before despatch and we shall not be liable for any defects whatsoever howsoever arising after such an opportunity has been given and the goods have been despatched.
- Extras.** The prices given in our acknowledgement of order include only for such work and services as are specified therein. The extra cost of any work not specifically required by the Contract shall be added to the Contract price and paid for accordingly and all such work shall be carried out subject to these Conditions.
- Loss or Damage in Transit.** We shall be under no liability for any loss or damage in transit unless due to negligence on our part or that of our servants or agents and then only if notice in writing of such loss or damage is received by us within 8 days after delivery or where delivery is made by our own transport, within a reasonable time after receipt of the advice note. Any claims for non-delivery must be made within 14 days after receipt of the advice note.
- Packaging.** Items despatched to us for processing should be suitably packed having regard, inter alia, to their manufacturing tolerances, quality and the inherent value of the items in question. We assume that you are expert in the preparation of your goods for shipment. We will use the same packing where practical and packed to at least as good a standard for return to you. Any additional packaging requirements, whether required by you, or deemed necessary by us to protect the work, will be chargeable.
- Barrel Plating and Bulk Processing.** Quotations for barrel plating work and other bulk processing of small parts are given, and contracts for such work accepted, subjected to the customary trade allowance for wastage of 5%. Such work will generally be charged for and checked by weight or quantity only as appropriate.
- Insurance.** We shall insure the goods from the time they are received into our works until the time they are despatched against risks of loss, damage or destruction by fire, explosion, lightning, earthquake, malicious damage, theft, flood, storm, tempest and aircraft and other aerial devices or articles dropped therefrom up to a maximum value of £5,000 for any one item or individual batch. Orders for goods valued in excess of this figure shall be identified clearly on your order indicating their true value. Should you require insurance cover in any way different from the above, we must be advised in adequate time prior to the receipt of the goods in our works and we reserve the right to quote for processing any goods which are the subject of a request for increased insurance cover, or to refuse to accept such goods. In no case shall our liability, if any, for loss or damage to the goods at our works caused by such insured risks exceed the limit of indemnity under the Policy. The relevant Insurance Policies may be inspected at our offices at any time upon receipt of written request.
- Limitation of Liability.** Except as otherwise provided under these Conditions, our liability whether arising by reason of breach of contract or a statutory duty or in tort (including but not limited to negligence) or otherwise howsoever other than in respect of claims for death or personal injury caused by negligence as defined in the Unfair Contract Terms Act, 1977, shall be limited in respect of any article to three times the Contract price for processing the same. We shall not be liable to you for any loss of profits or loss of contracts or loss of use or for any indirect or consequential loss or damage whatsoever.
- Confidential Information.** All specifications, drawings, technical descriptions and details of processes (hereinafter called "information") submitted with our quotation or supplied to you pursuant to the Contract are supplied in confidence. You shall keep the information confidential and shall not disclose the same to any third party without our prior written consent and shall use the same only for the purposes of the Contract. Nothing in this clause shall prevent us from undertaking or offering to undertake for third parties any work or services similar to or designed to achieve the same results as the work or services provided under this Contract.
- Jigs or Tooling.** Any jigs or tools made by us for the purpose of the Contract shall remain our property notwithstanding that the cost thereof may be included in whole or in part in the Contract price. All drawings and information relating to such tools and jigs remain our property and our copyright and you undertake that you will not copy or make use of the same for the benefit of any third party without our prior written consent.
- Arbitration.** If at any time any question, dispute or difference whatsoever shall arise between you and ourselves upon, in relation to, or in connection with the Contract, either of us may give to the other notice in writing of the existence of such question, dispute or difference and the same shall be referred to the arbitration of a person to be mutually agreed upon, or failing agreement within 30 days of the receipt of such notice, to some person appointed by the President for the time being of the Institute of Metal Finishing.
- Legal Construction.** Unless otherwise agreed in writing, the Contract shall in all respects be construed and operate as an English Contract and in conformity with English law and the English courts shall have exclusive jurisdiction over any matter arising out of the provisions of clause 2.3.