

James Tobias Ltd.

TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

- 'Buyer' The person who buys or agrees to buy the Goods from James Tobias.
- 'Conditions' Includes the standard terms and Conditions set out in this document, any terms in the Quotation, in the Specification for the Goods, and in the Agreed Drawing.
- 'Goods' The goods (including any instalment) and any installation which James Tobias is to supply in accordance with these conditions.
- 'Agreed Drawing' The final drawing of the Goods issued and approved by James Tobias and marked as Agreed by the Buyer.

2. BASIS OF SALE

- 2.1 The Conditions shall apply to all contracts for the sale of Goods by James Tobias to the Buyer to the exclusion of all other terms and conditions including any terms and conditions which the Buyer may purport to apply in any purchase order, confirmation of order or similar document.
- 2.2 Any variation to the Conditions shall be inapplicable unless agreed in writing by James Tobias.
- 2.3 No order submitted to the Buyer shall be deemed to be accepted by James Tobias and until confirmed in writing by James Tobias.
- 2.4 James Tobias reserves the right to make any changes in the Specification for the Goods which do not materially affect their quality or performance.

3. DRAWINGS & SPECIFICATIONS

- 3.1 Any drawings submitted with James Tobias's quotation are for identification purposes only and shall not be binding as to detail.
- 3.2 The Buyer shall be responsible for ensuring the accuracy of the terms of any order, any specification for the Goods, the Agreed Drawing and for giving James Tobias any necessary information relating to the Goods within a sufficient time to enable James Tobias to perform the contract.
- 3.3 The cost of any additional work caused by defects in information supplied by the 'Buyer', the Agreed Drawing and any Specification shall be chargeable to the Buyer at James Tobias's prevailing rates.
- 3.4 James Tobias gives no undertaking that the Goods are fit for any particular purpose (beyond normal office use) and the Buyer having greater knowledge of its own (or its customer's requirements) relies entirely on its own skill and judgement in evaluating the suitability of the Goods for its purpose.

4. TERMS OF PAYMENT

- 4.1 All prices quotes are exclusive of VAT.
- 4.2 Unless otherwise agreed, Goods shall be invoiced upon delivery and/or Practical Completion and paid within 30 days of invoice.
- 4.3 Practical Completion is deemed to be at the point where beneficial use may be made of the Goods
- 4.4 Credit terms may be removed or revised at the absolute discretion of James Tobias. The Buyer will pay the price in full without any discount, deduction or set off. Snagging works shall not be a reason to delay payment
- 4.5 If the Buyer fails to make any payment on the due date then James Tobias shall be entitled to:
- 4.5.1 Cancel the contract or suspend any further deliveries or installation work
- 4.5.2 Reclaim any product discount offered on the Goods and
- 4.5.3 Charge interest (before and after any judgement) on the amount unpaid at the rate of 2½ % per month compounded until payment in full is made and charge any legal costs disbursements and bank charges incurred.

5. PREPARATORY WORK

- 5.1 *Installation by James Tobias:*
- 5.1.1 All floors, ceilings and walls must be in place in a fit state of condition without obstruction to receive the Goods.
- 5.1.2 A clear working space must be provided with all necessary electricity, heating and lighting facilities available at the Buyer's expense.
- 5.1.3 James Tobias strongly recommends that carpets and floor coverings should be protected over the entire area where the installation works are to be carried out. Where carpet is not adequately protected or professionally cut to allow the Goods to be properly fitted James Tobias shall not be responsible for any damage caused.
- 5.2 *Installation by the Buyer:*
- 5.2.1 Notwithstanding James Tobias's warranty in Clause 9 James Tobias shall not be responsible for any defect or damage caused to the Goods or otherwise arising from the installation of the Goods by the Buyer or its agents.

6. ADDITIONAL WORK, DELAYS AND VARIATIONS

- 6.1 Any quotation given in respect of the Goods is subject to revision after physical inspection of the site by James Tobias. Unless otherwise stated any quotation is given on the basis of the installation work being carried out continuously and without interruption from the time of commencement to Practical Completion
- 6.2 Should any installation work be delayed due to the site not being reasonably clear, services not being available, employees or other contractors working in the site area or for any other reason beyond the control of James Tobias, then the Buyer shall be responsible for all costs and expenses incurred. Unproductive down time shall be paid at James Tobias's prevailing labour rates.
- 6.3 In the event of additional work being necessary for any reason under these Conditions or variations being required by the Buyer, such work shall be charged at James Tobias current rates, to include labour costs, travelling expenses and material costs. The travelling time of all James Tobias employees and agents from James Tobias premises to and from the site shall be chargeable at labour rates.



7. COMPLETION & DELIVERY

- 7.1 Delivery of the Goods shall be made by James Tobias delivering the Goods to the place notified by the Buyer. If the Buyer fails to give James Tobias adequate delivery instructions the Buyer shall be responsible for all costs liabilities and expenses howsoever incurred as a result of a delay in delivery.
- 7.2 Every effort shall be made to deliver the goods and complete installation by the time stated but James Tobias shall not be liable for delay in delivery of the Goods (and the installation work) howsoever caused. The time for delivery shall not be of the essence unless previously agreed by James Tobias in writing.
- 7.3 Changes to layout and/or specification or authorised additional work may effect lead times and cause James Tobias to require an extension to the projected Practical Completion date.

8. RISK AND PROPERTY

- 8.1 The Goods shall be the Buyer's risk as from delivery.
- 8.2 In spite of delivery having been made, property in the Goods shall not pass from James Tobias until:-
- 8.2.1 The Buyer shall have paid the price plus VAT for the Goods in full:
- 8.2.2 No other sums whatever shall be due from the Buyer to James Tobias.
- 8.3 Until property in the Goods passes to the Buyer the Buyer shall hold them as bailee and store them separately in such a way that they can be identified as James Tobias's property.
- 8.4 The Buyer shall insure the Goods against all risks until the date the property in the Goods passes from James Tobias and in the event of loss or damage shall hold the proceeds of such insurance on behalf of James Tobias as trustees for it. Notwithstanding that the Goods remain the property of James Tobias the Buyer may use the Goods in the ordinary course of the Buyer's business.
- 8.5 The Buyer grants James Tobias, its agents and employees an irrevocable licence to enter any premises where the Goods are stored or installation work carried out in order to repossess them or inspect them at any time.

9. WARRANTY

- 9.1 James Tobias warrants the Goods against any defects in workmanship, construction or materials for a period of 12 months from the date of delivery. If any defect manifests itself during that period and is the fault of James Tobias, James Tobias will at its own expense repair or if necessary replace the Goods or components.
- 9.2 James Tobias's liability to the Buyer whether for any breach of contract or otherwise, shall not in any event exceed the price of the Goods and James Tobias shall be under no liability for any direct loss and/or expense or indirect loss and/or expense suffered by the Buyer or liability to third parties incurred by the Buyer.
- 9.3 The above warranty defines James Tobias's liability in respect of the Goods. All warranties and conditions whether implied by statute or otherwise are excluded from this contract provided that nothing in the contract shall restrict or exclude liability for death or personal injury caused by the negligence of James Tobias.

10. REGULATIONS

- 10.1 The Buyer shall promptly obtain all necessary licences, clearances and other consents necessary for the supply of the Goods.

11. CANCELLATION

- 11.1 No order which has been accepted by James Tobias may be cancelled by the Buyer except with the agreement in writing of James Tobias and on terms that the Buyer shall indemnify James Tobias in full against all loss (including loss of profit) cost (including the cost of all labour and materials used) damages, charges and expenses incurred by James Tobias as a result of cancellation.

12. SEVERENCE

- 12.1 If any term or provision of the Conditions shall be held to be illegal or unenforceable in whole or in part, such term or provision or part shall to that extent be deemed not to form part of the Contract but the validity and enforceability of the remainder of the Conditions shall not be affected.

13. WAIVER

- 13.1 No waiver by James Tobias of any breach of the contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provisions.

14. INSOLVENCY

- 14.1 This contract is deemed to terminate immediately prior to the occurrence or any event of insolvency of the Buyer or, the breach by the Buyer of any terms or conditions of this contract. In the event of termination, James Tobias may in addition to any other rights it may have, stop any goods in transit, and/or suspend any installation work or further deliveries of the Goods.

15. INDEMNITY

- 15.1 The Buyer shall indemnify James Tobias fully against all losses liabilities costs and expenses which James Tobias may incur as a result of work done in accordance with the Buyers specifications involving infringement of any intellectual right

16. FORCE MAJEURE

- 16.1 James Tobias shall not be liable for any delay or for the consequences of any delay in performing any of its obligations under the contract if such delay is due to any cause whatsoever beyond its reasonable control and James Tobias shall be entitled to a reasonable extension of time for performing such obligations.

17. NOTICES

- 17.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing, addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice

18. LAW

- 18.1 This contract is subject to the law of England and Wales.

