

ABBOTT & CO. (NEWARK) LTD. - CONDITIONS OF SALE

1. GENERAL - (a) The acceptance of any order shall be the legal basis of the Contract. (b) Purchaser's Conditions. In the event of Purchaser's Official Order Forms containing special printed conditions it is understood that such conditions are only binding in so far as they are not at variance with the terms and conditions mentioned herein.
2. PRICE VARIATION - (a) Where no price has been agreed at the time of our acceptance of the order, the price shall be that current at the time of delivery or completion of the work. (b) Where a price has been quoted, this is based on costs of material, labour, transport and other items ruling at the date of the quotation, and we reserve the right to Invoice at the price ruling when the work is completed, to cover any advances which may take place between the date of quotation and the completion of the work.
3. PAYMENT - (a) Unless otherwise specified in the quotation, or contract made, the Purchase price is to be paid net cash monthly by the end of the month following the month in which the goods were dispatched. (b) Interest will be payable from the due date for payment to the actual date of payment at the rate of 3% per annum above Lloyds Bank PLC base rate from time to time, until payment in full is made (a part month being treated as a full month for the purpose of calculating interest).
4. TITLE AND RISK - (a) Legal ownership in the goods shall pass to the Buyer on payment therefore and payment by cheque shall constitute a payment hereunder only on clearance of the cheque. Pending payment the Buyer shall be fiduciary owner of the goods on behalf of the Seller. (b) Until payment in full has been made for the goods the Buyer shall so deal with the goods that they maybe readily identified as our property and shall insure the goods against risk of loss or damage to the full value thereof and, on 24 hours notice, shall grant access and provide all necessary facilities to a reasonable number of our servants or agents or employees to enable us to recover possession of the goods. Notwithstanding the foregoing, the Purchaser shall be entitled to sell the goods the subject of the Contract to a third party (other than a subsidiary of or a Company within the same group as the Purchaser) in the normal course of its business on condition that, so long as the Purchaser has not discharged all monies owing to us, we shall be entitled to the benefit of all claims the Purchaser has against its sub-purchasers emanating from such transaction which benefit the Purchaser shall formally assign to us when called upon to do so. Notwithstanding the foregoing and without prejudice to our other rights under the Contract, we shall have the right to pass the property in the goods the subject of any Contract at any time after delivery of such goods to the Purchaser by written notice served on the Purchaser. (c) Except as expressly provided in any Contract, risk of loss of or damage to the goods the subject of any Contract shall pass to the Purchaser on ex works delivery of the goods. (d) Notwithstanding anything herein otherwise contained, payment hereunder shall become due immediately in the event of the Buyer (being an individual) becoming bankrupt or having a receiving order made against him (or being a company) entering into liquidation or having a receiver appointed to any of its assets or (in either event) entering into any arrangement or composition for the benefit of his or its creditors or suffering any execution on his or its premises.
5. CANCELLATION - No order shall be subject to cancellation either in whole or part without our written consent. Delay in delivery or cancellation of Purchasers' Contracts will not be accepted as sufficient reason for termination of the Contract.
6. DELIVERY - The time of the execution of the order is to date from receipt by us of a written order to proceed, together with all necessary information and drawings enabling us to put the work in hand. We will do our best to deliver by the time indicated but will accept no liability for failure to do so. Should delivery be delayed by Purchasers' instructions or lack of instructions, or by any cause whatsoever beyond our control, including strikes, lockouts, war, fire, force majeure, or defective material, a reasonable extension of time shall be granted.
7. SITE WORK - When undertaken by us, the purchaser to be responsible for Employers' liability and Workmen's Compensation of all labour they supply to us on the Contract, our responsibility extending only to any Superintendent and labour directly employed and paid by us.
8. INSPECTION - Our products are carefully inspected and tested by our own Staff before despatch, and except in the case of stock Vessels already tested, the final test at our works may, if so desired, be made in the presence of the Purchaser's representative, without extra charge, provided that such representative attends at our Works for this purpose within a period of seven days after we have notified the Purchaser that we are ready. In the event of plate examinations or examinations of the Vessels during construction by an external authority, these will be charge for extra, unless such examinations have been definitely specified and included in the price. In any case it must be clearly understood that these examinations are not to delay the progress of work in our Shops.
9. GUARANTEE - We undertake to make good any defect rising solely from faulty material or workmanship and disclosed within a period of six calendar months from the date of despatch or failing despatch when ready, within 9 months from date of being ready for dispatch, whichever be the shorter period. Any replacement supplied under this clause will be delivered free within Railway Company's free delivery area, or F.O.B British Port if for export, and any costs other than the actual making good of the defect is to be borne by the purchaser. All parts supplied by us not our manufacture are not covered by the above guarantee and are subject only to the warranty (if any) of the Makers.
Provided that -
 - (a) Notice in writing is given of any such defect immediately it is disclosed and no repair or replacement is made or attempted otherwise than by us or with our express written permission.
 - (b) All materials and fittings supplied by Sub-Contractors shall carry the Sub-Contractors' Guarantee, beyond which we accept no responsibility.
 - (c) It is understood by the purchaser that any repair work undertaken by us or replacements supplied in no way extends the guarantee period.
 - (d) Save and except the making good of the defect itself, we shall not be liable for and the Purchaser hereby expressly agrees to indemnify us against any liability attaching to us at Common Law or under any Statute or regulation or Order made by Competent Authority in respect of any claims, loss, damage, or expenses of whatsoever nature (including claims for any personal injury or damage to property) directly or indirectly due to or caused by or consequential upon the existence or occurrence of any defect or unsuitability or inadequacy of performance or defective erection.
 - (e) The guarantee and undertaking is in lieu of and excludes all other guarantees, conditions, warranties, representations and liabilities whatsoever, whether expressed, implied, statutory or otherwise, which might exist but for this provision.
 - (f) Any liability on our part is subject to the terms of payment and all purchasers other obligations to us under the Contract being strictly observed.
10. PERFORMANCE - Any particulars of capacity or consumption given either in our catalogues or in correspondence must always be taken as approximate only and not in any way as a guarantee unless there is a specific understanding to that effect.
11. LITERATURE - Photographs and other illustrations or advertisement matter supplied, represent generally the goods specified but shall not be taken as representing the goods the subject of the Contract, and shall not form part thereof.
12. STORAGE - Should forwarding instructions not be received when the goods are ready, a charge will be made for storage and fire insurance, and the goods shall be paid for as if they had been despatched.
13. HEALTH & SAFETY AT WORK ACT - The Buyer acknowledges having been supplied by the Seller with all necessary information concerning any possible danger to health or safety of the Buyers employees or any third party supplied with our goods by the Buyer, emanating from or associated with the goods supplied in this Contract and undertakes to insure as regards to use to which the goods are made that the provisions of the Health & Safety at Work Act 1974 and in particular the provisions of section 6 thereof shall be fully complied with and agrees to indemnify and keep indemnified the Seller in respect of any claim or cost which the Seller may have to meet arising directly or indirectly out of the supply of goods forming part of this Contract to the Buyer and due to the Buyers failure to properly comply with the terms of this undertaking or the provisions of the said Act or any other statutory provisions or modifications thereof.
14. LEGAL CONSTRUCTION - (a) The Contract shall in all respects be construed and operate as an English Contract and in conformity with English Law. (b) The titles of the Clause shall not affect their legal construction. (c) The expression "Purchaser" wherever used in these conditions includes any person for whom work is undertaken or to whom materials are supplied.
15. ARBITRATION - Any difference which may arise between us in relation to or in connection with the Contract shall be referred to an Arbitrator to be mutually agreed upon or, failing agreement, some person appointed by the President of the Institution of Mechanical Engineers, and such Arbitrator shall be deemed to be a single Arbitrator within the Arbitration Act, 1950, or any statutory enactment in that behalf for the time being in force.
16. VARIATION - No representative or Agent of the company has any authority to modify these standard conditions except with the Company's Official Confirmation in writing.