

Tindall Engineering Limited

STANDARD TERMS AND CONDITIONS OF BUSINESS

1 DEFINITIONS

In these Conditions:

"**Company**" means Tindall Engineering Limited, whose registered office is Unit 8, Laurel Trading Estate, Higginshaw Lane, Royton, Lancashire, OL2 6LH as shall enter in to a contract with the Purchaser.

"**Conditions**" means these Standard Conditions of Business.

"**Contract**" means a contract between the Company and the Purchaser for the sale of Goods and/or the supply of Services.

"**Purchaser**" means any person, firm, company or other organisation with whom the Company enters into a Contract whether directly or indirectly.

"**Goods**" means all articles and materials (or any instalment or part of them) to be supplied under the Contract.

"**Services**" means all services to be performed under the Contract including installation of Goods if specified.

"**Specifications**" means the specifications if any for the Goods and Services incorporated in the Contract.

"**Drawings**" means the drawings for the Goods and Services incorporated in the Contract.

"**Sales Literature**" means any printed document or article or other information setting out details of products, product numbers, practical performance details as supplied by the Company.

"**Sample**" means a sample of the Goods to be supplied under the Contract.

"**Quotation**" means a non-binding estimate whether written or oral as provided by the Company to the Purchaser prior to any Contract.

2 APPLICATION

All orders are accepted only upon the Conditions herein contained. Unless expressly accepted by the Company in writing, no addition to or waiver or modification of the Contract or these Conditions shall apply. If a Purchaser's order contains or is subject to terms and conditions at variance with these Conditions, these Conditions shall apply.



3 QUOTATIONS

Quotations issued by the Company are estimates only and are not binding on the Company. The Company may at any time alter the Quotation to reflect by way of example only increases in the price of raw materials, wages, salaries, duties, taxes and packaging.

4 ORDERS

- (A) No order shall be binding on the Company until accepted by the Company.
- (B) The Company shall be entitled to adjust the price of the Goods and/or the price of the Services given in the order in the event of any increase, however arising, in the cost to the Company of preparing or supplying the Goods and Services, including, without prejudice to the generality of the foregoing, increases in costs of materials, wages and salaries and increases due to (i) any delays by the Purchaser in providing any information required by the Company for the preparation, supply or delivery of the Goods (ii) any overtime being worked at the request of the Purchaser (iii) any alteration in design, quantity, specification or production details (including the correction of any error therein) being made at the request of the Purchaser.
- (C) All sums due to be paid under any Contract are unless stated otherwise exclusive of VAT which shall be charged in addition at the prevailing rates.
- (D) The Goods and/or services supplied shall be as set out in the contract and no Sales Literature, Specification or Drawing shall form part of the Contract unless specifically stated to form part of the Contract itself.
- (E) The Company shall be entitled to charge an amount to cover its reasonable costs of processing the Purchaser's order in addition to the price of the Goods and/or Services if the total order price for the Goods and/or services, excluding VAT, is below the Company's minimum order level current at the time the order is placed. The Company shall notify the Purchaser of any additional costs at the time of accepting an order and shall on request provide to the Purchaser full details of its minimum order level.

5 QUALITY OF PERFORMANCE OF SERVICES

The Company shall supply the Services as specified in the Contract and it shall carry out such services with due skill care and diligence.

6 PLACING ORDERS

- (A) The Company will not accept responsibility for any inaccuracies in orders placed by telephone, telegram, telex, facsimile or electronic mail transmission. All orders must be confirmed in writing duly signed by an authorised representative of the Purchaser. In the event of any discrepancy in orders placed by telephone, telegram, telex, facsimile or electronic mail transmission and the written confirmation of the Order the Company will comply with the order as confirmed in writing.

- (B) Carriage, postage, package and insurance will be charged on all orders in addition to the price of the Goods and/or Services unless otherwise agreed, as will Customs duties and other local taxes (if appropriate).
- (C) Custom Orders. Custom orders shall be given a specific S-package numerical assignment and terms specific to the custom order shall be included as addition Exhibit, and incorporated herein. These Exhibit are provided to the Purchaser on an exclusive basis. The Company understands that Purchaser may modify the product. The Company shall provide its standard warranty for the product as manufactured by the Company. Any part of the product modified by the Purchaser or affected by such modification, shall not be warranted by the Company.

7 DELIVERY AND DELAY

- (A) Delivery shall take place when the Goods are handed to the Purchaser or the Purchaser's carrier at the Company's premises, unless the Contract specifically provides otherwise. Risk but not title to the Goods shall pass to the Purchaser from delivery.
- (B) Any time or date given by the Company for delivery or completion is not a condition of the Contract but an estimate only and the Company shall not be responsible for any failure or delay in the performance of its obligations where the same is due to causes beyond its reasonable control including (but without limiting the foregoing) shortages of materials, acts of war (declared or not) riot, civil commotion, accidents, strikes or lock outs of employees, acts of God or any restriction imposed by any local or municipal authority or government authority including customs authority whether British or foreign, transport delays, industrial action, terrorism or other criminal acts. Time for delivery is not of the essence of the Contract.
- (C) If any delay shall occur through any cause mentioned above, the Company reserves the right to defer any date for delivery or completion for a reasonable time, having regard to all the circumstances, without being in breach of the Contract. Any increase in cost due to such delay shall be payable by the Purchaser. If such delay continues unbroken for a period of 30 days, then either party may at its option forthwith terminate the Contract by giving to the other fourteen days' written notice. The consequences of termination shall be governed by the provisions of Sub-Clause (D) below and Clause 9 hereof. In no such case shall the Company be responsible for any loss direct, indirect or consequential which may result.
- (D) If the Contract is so terminated, the Purchaser shall be liable to pay for all Services performed prior to the date of termination and for any Goods manufactured and/or delivered prior to termination.
- (E) If the Purchaser fails to collect the Goods within 14 days of the date specified as the date for collection and the Goods remain on the Company's premises then the risk in the Goods shall nevertheless pass to the Purchaser on the expiry of 14 days from the date specified for collection.



8 PAYMENT

- (A) Subject to satisfactory trade, bankers and other references which may be required by the Company, and where no other terms of payment have specifically been agreed in the order acknowledgement or in this Condition, orders are taken subject to payment being effected within twenty eight days from the invoice date. Otherwise pro-forma invoice payment arrangements will apply in advance of commencement of production. Refer to Section 9 (c) in the case of export orders only.
- (B) The Company shall have the right to submit interim invoices as work proceeds. Payment of such invoices shall be effected within twenty eight days from the interim invoice date.
- (C) All payments shall be made in sterling and shall be paid in full without any set-off, deduction or counterclaim.
- (D) Time for payments shall be of the essence of the Contract and, if the Purchaser shall fail to pay the price (including interim payment) when due in accordance with the provisions of this Clause, the Company may treat the Contract with the Purchaser as repudiated and, in addition, without prejudice to such right, the Company shall be entitled to interest on the outstanding amount of the price from the due date of payment until the price is paid in full at the rate of three per cent above the base rate of Barclays Bank PLC from time to time both before and after judgement. The Company shall also be entitled to recover all of its reasonable legal costs incurred as a result of the Purchaser's failure to pay.
- (E) Property in the Goods shall remain with the Company until all payments owing on any account whatsoever have been paid in full.
- (F) Without prejudice to its rights to repossess the goods the Company shall be entitled to bring an action for the price whether or not the property in the Goods has passed to the Purchaser.
- (G) Upon delivery and while property in the Goods remains with the Company, the Purchaser shall hold the Goods as bailee and shall keep them safe, insured, separate and identifiable from all other goods in its possession. Until property passes to the Purchaser, the Company may, (in addition to any other rights it may have) enter any land or buildings where the Goods are located and repossess and sell the Goods.
- (H) In the event that the exercise by the Company of the rights conferred by Clause 8(G) results in the Company repossessing the Goods for which the Purchaser has paid, the Company may set off any sums which become due from the Company to the Purchaser as a consequence against any sums due from the Purchaser in respect of other Goods.
- (I) The Purchaser shall remain liable for the price of the Goods irrespective of whether any credit account facility has been exceeded.



9 EXPORT

- (A) This Condition applies where Goods are supplied for export from the United Kingdom.
- (B) Unless expressly stated in the Company's acknowledgement of the Purchaser's order, prices are in GBP and FCA (Tindall Engineering Ltd, Unit 8, Laurel Trading Estate, Higginshaw Lane, Royton, Lancashire, OL2 6LH, UK) Incoterms® 2010 and do not include packing/crating, carriage, freight, insurance, loading, VAT and all applicable taxes and import duties. The preparation of all export documentation will be supplied at the option of the Company on written request by the Purchaser and any extra charges for such services shall be for the account of the Purchaser.
- (C) Unless otherwise agreed in writing payment shall accompany the order in full in sterling and the order will not be accepted and production will not be commenced until such payment is received.
- (D) The Purchaser is responsible for complying with all laws and regulations governing the import of the Goods into any country and for ensuring that the Goods comply with all laws, regulations and licensing requirements of any country to which they are exported. The Purchaser shall indemnify the Company against the consequences of any breach of those laws, regulations and licensing requirements.
- (E) Section 32(3) of the Sale of Goods Act 1979 shall not apply where Goods are handed to a carrier or United Kingdom port for export to the Purchaser, that carrier or port shall be treated as an agent of the Company for the purposes of section 44, 45 and 46 of the Sale of Goods Act 1979.
- (F) The uniform law on international sales shall not apply.

10 RETURN OF GOODS

- (A) The Company is not obliged to accept Goods returned by the Purchaser which are neither faulty nor defective. The decision as to whether or not to accept returned Goods shall be at the Company's sole discretion.
- (B) The cost of return of Goods in circumstances described in Clause 10(A) shall be borne exclusively by the Purchaser.
- (C) Without prejudice to Clause 10(A), the Company shall, in its absolute discretion, determine such amounts as it shall consider reasonable to be credited to the Purchaser on the return of Goods in accordance with Clause 10(A). The Company shall have regard to the circumstances of each case including, but without limitation to the generality of the foregoing, whether the Goods have been manufactured specifically to the order of the Purchaser, have been altered to meet a Purchaser's specifications, any wear and tear suffered by the Goods and the reasonable handling charges incurred by the Company in processing and otherwise dealing with returned Goods.



- (D) Any Goods returned and accepted as returned by the Company shall be at the Purchaser's risk until the Goods are received by the Company at its premises. Goods not accepted by the Company shall remain at the Purchaser's risk.

11 WARRANTY

- (A) If the Goods are defective in materials or workmanship at delivery or any such defect appears in the twelve month period following delivery the Company shall at its option repair or replace such Goods free of charge.
- (B) The Purchaser shall either return the defective Goods to the Company (which shall be at the Company's expense if the goods are found to be defective and at the Purchaser's expense otherwise) or shall make available the goods for inspection by the Company before repair or replacement can be effected.
- (C) The Company shall not have any liability for any defect in the Goods arising from errors in the Specifications, Drawings or Samples submitted for approval to the Purchaser and having been approved or supplied by the Purchaser, as the case may be.
- (D) This Warranty shall not apply to the following:
- (i) defects resulting from fair wear and tear, misuse or failure to carry out the maintenance procedures recommended by the Company;
 - (ii) defects in Goods resulting from the use of a part or attachment or equipment whether supplied by the Company or not fitted by someone other than the Company;
 - (iii) Goods which have been altered by the Purchaser. Unaltered components will remain subject to Warranty.
- (E) If any defect arises as a result of incorrect or faulty installation of the Goods the Purchaser shall make such defect known to the Company and confirm in writing the details of that defect within 24 hours of first notifying the Company. The Company has no liability for any defect which is not reported to it in the manner as set out above. The Purchaser shall then make the Goods available for inspection. If no defect is found then any costs incurred by the Company in inspecting the Goods shall be met by the Purchaser. On discovering the defect the Company shall be permitted to make good the defect in the manner as it shall think fit, including reinstallation of the Goods if the Company shall deem reinstallation appropriate.

12 LIABILITY

- (A) The Company shall not have any liability for non-delivery, loss of or damage to Goods occurring prior to delivery nor for short delivery unless claims to that effect are notified in writing to the Company within 7 days from the date of delivery (in the case of loss or damage or short delivery) or within 7 days of the Company's invoice or advice note (in the case of non-delivery).
- (B) The Company shall have no liability for any special, indirect, economic nor consequential loss nor for any loss of profits or goodwill suffered by the Purchaser.
- (C) Nothing in these Conditions shall exclude the liability of the Company for death or personal injury resulting from its negligence in so far as the same is prohibited by United Kingdom statute.
- (D) Save as expressly provided in these Conditions, all terms, conditions and warranties (whether express or implied) are excluded to the fullest extent permitted by law. The Goods are not sold by description or sample.
- (E) Subject to any other limitations or exclusions of liability in these Conditions, the maximum aggregate liability of the Company, its employees and agents for breach of any contract, negligence or otherwise shall so far as permitted by law be limited to twice the price paid to the Company for the Goods or Services to which the claim relates.

13 ADVERTISING

- (A) All descriptive advertising and other material issued by the Company is based on the Company's experience and tests and is believed to be reliable, but no responsibility is accepted for errors or for infringement of trademarks, service marks, copyright or design copyright.
- (B) All descriptions and illustrations contained in the Company's Sales Literature, catalogues, price lists and advertisements or otherwise communicated to the Purchaser are intended merely to represent a general idea of the Goods described therein, and nothing contained in any of them shall form any part of the Contract.
- (C) The Purchaser acknowledges that there are no representations outside these terms which have induced him to enter into the Contract and these Conditions and any Specification or Drawing specifically incorporated in the Contract shall constitute the entire understanding between the parties for the sale of the Goods and/or the supply of Services.



14 CONFIDENTIAL INFORMATION

- (A) The Purchaser shall treat all drawings, procedures, instructions, documents, product samples and other information of any kind whatsoever supplied by the Company to the Purchaser as strictly confidential (except to the extent that such information is available in the public domain) and shall not without the prior consent of The Company, disclose or part with possession of any such documents, samples or information or extracts therefrom or copies thereof or use any such documents, samples or information otherwise than in connection with the Goods to which they relate.
- (B) The Company reserve the right to request the signing by the Purchaser of a non-disclosure agreement of confidentiality and ownership of intellectual property rights agreement provided by the Company in advance of or during trading to protect the Company's information and intellectual property as governed by English Law.

15 PATENTS

The Purchaser shall promptly inform the Company of any threatened claim as to the alleged infringement of letters patent, or other third party rights by or in connection with the Goods and shall, if so required by the Company, take all reasonable steps to enable the Company to defend any such claim. The Purchaser shall render assistance to the Company in defending such claim at the Purchaser's request and expense.

16 CANCELLATION

In no circumstances (other than those specified in Clause 7(C)), shall the Purchaser cancel this Contract without the Company's written agreement: If such agreement is given, or if the Contract is terminated pursuant to the provisions of Clause 7(C), the Purchaser will indemnify the Company against all losses (including loss of profit) suffered by the Company arising out of such cancellation.

17 TERMINATION

If the Purchaser shall make default in or commit a breach of any contract or of any of his obligations to the Company, or if any distress or execution shall be levied upon the Purchaser's property or assets or if the Purchaser shall make or offer to make any arrangement or composition with his or its creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against him or it or if the Purchaser is a limited company and any resolution or petition to wind up such company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented, or if a Receiver of such company's undertaking property or assets or any part thereof shall be appointed, the Company shall have the right forthwith to determine any contract then subsisting with the Purchaser and upon written notice of such determination being posted to the Purchaser's last known address, any subsisting contract shall be deemed to be determined but without prejudice to any claim that the Company may have in respect of any antecedent breach by the Purchaser of any of his obligations under the said contract.



Designers and Manufacturers Of the MICO range of Emergency Exit Hardware and High Security Multi-point Locking Systems.

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18 APPLICABLE LAW

All Contracts shall be governed by and interpreted in accordance with English law and the Company and the Purchaser both submit to the exclusive jurisdiction of the courts of England.

19 HEADINGS

The headings of these Conditions are provided for convenience only and shall have no effect on the interpretation thereof.

Date of issue: 21st April 2017

