

## **MBO (UK) LTD Terms and Conditions of Sale**

- 1: GENERAL: All orders accepted, goods and services supplied and quotations submitted are subject to the following express terms and conditions and all other warranties and representations express or implied and statutory or otherwise except as to title are hereby excluded. No contract shall exist unless on these terms and conditions that shall apply in priority to and not withstanding any term or condition which the customer shall put forward. No addition thereto or variation there from or contained or referred to in the customer's order form or otherwise effected shall apply unless specifically agreed in writing by MBO (UK) LTD (hereinafter referred to as the company).
- 2: ORDERS: All orders including any based on a quotation previously submitted by the company are subject to acceptance in writing by the company.
- 3: PRICES AND PAYMENT: The prices are based upon current costs and if there is any variation in the said costs between the date of the order or contract and delivery the company shall be entitled to adjust prices to reflect such variation. In the event of any suspension or variation of work arising from the customer's instructions the prices set out shall be increased to cover any extra expense incurred by the company. All prices quoted are strictly net. The customer shall where applicable in addition to the relevant price pay a sum equal to the value added tax chargeable in respect of the supply of goods or services. In the case of sales in the United Kingdom accounts must be paid in full within one month (30 days) from the date of the invoice and in the case of sales outside the United Kingdom payment shall be made against our proforma invoice in advance of despatch by IBAN/BACS or an irrevocable letter of credit opened with a bank approved by the company or as may otherwise be agreed in writing by the company. The customer shall be liable to pay interest on any outstanding amount from its due date until the date of payment at the rate of 2% per month if payment is not received within the stipulated time.
- 4: DELIVERY DATES: Any times quoted for delivery are to be treated as estimates only. The company shall not be liable in any manner whatsoever for failure to deliver within the time quoted, nor in such circumstances, shall the customer be entitled to cancel or terminate any order or contract.
- 5: DELIVERY AND RISK: Goods will be delivered to a carrier for transmission to the customer but the company shall not be under any obligation to make any reasonable or other contract with the carrier nor to insure or to give any notice to the customer to enable insurance to be effected. The goods shall be at the customer's risk from the date of delivery to the carrier or the date of delivery to the customer, whichever is the earlier. The customer shall insure the goods (to their full replacement value) against all loss (including without limitation, theft) damage and/or deterioration from the moment when delivery is deemed to have taken place until title to the goods passes to the customer and the company's interest shall be noted on the relevant policy of insurance. The customer shall be responsible for complying with all relevant laws, bylaws, regulations, orders directions, codes of practice or requirements of any statutory public local or other competent authority or court of competent jurisdiction applicable and incidental to the storage, provision and use of the goods.
- 6: WARRANTY AND LIMITATION OF LIABILITY: The company warrants its goods sold under these conditions to be free from defects in material and workmanship of which it receives notice within a good period of one month from the date of despatch in accordance with the provision set out below but gives no warranty and makes no representation whether express or implied as to any other matters and all conditions, terms, warranties, stipulations or other statements whatsoever including (without limitations) the year of manufacture condition satisfactory quality or fitness for any purpose are hereby excluded. The sole liability of the company is in any event limited to replacing repairing or issuing credit as its option for any goods which are returned at the customer's expense during the above-mentioned period of one month. This warranty shall not be applicable unless the company is informed in writing of any such defect immediately upon discovering such defect (and in any event not later than 1 month after the date of despatch) and the company is satisfied after examination that such defect exists and has not been caused by misuse, neglect, improper installation or storage, alteration or accident. This condition shall not be applicable if the goods are not properly used or looked after. If the company does not admit liability it shall certify the cost of any test carried out and such cost shall be borne by the customer, and the customer must return the goods at his own expense.
- 7: QUANTITIES, SHORTAGES AND DAMAGES: The quantity of goods supplied may vary from the quantities specified on the order and a variation of not more than, plus or minus, five percent from such quantities shall not under any circumstances constitute a failure to perform the contract. The company shall not be liable for any delivery of less than the quantity specified or for a delivery arriving in a damaged condition unless the customer shall have informed the company in writing of such shortage or damage within two days after receipt of the goods.
- 8: RETENTION OF TITLE: Until such time the customer has paid to the company all sums due on whatever grounds from the customer to the company the customer shall not have nor shall it allow any third party to acquire an interest in the goods supplied or title to them and without prejudice to the generality thereof the customer shall not pledge them, part with possession of them to be installed as fixtures of any property, allow their nature to be changed or allow them to be used as part of any process, provided that the customer shall be at liberty to sell the goods in the ordinary course of the customer's business on the basis that the proceeds of sale shall be the property of the company and shall be held on trust by the customer of the company to whom the customer shall on account on demand. The customer shall hold the goods as bailee of the company and shall store, label, mark or sign such goods so as to indicate the ownership of the company until the customer has paid the company all sums due in full.
- 9: REPOSSESSION OF GOODS: The Company may at any time terminate the customer's right to possession of the goods and the customer's power of sale by notice in writing in any of the events set out below in clause 14. at any time after the termination of such rights of the customer, the company may for the purpose of recovery of all or part of the goods enter upon any premises they are stored or where they are reasonably thought to be stored and may repossess the same and notwithstanding clause 5 above, the company shall have the right to stop goods in transit and repossess them. The company's right shall not be prejudged or restricted by any indulgence or forbearance extended to the customer and no waiver by the company in respect of any subsequent breach.
- 10: INSTALMENTS: The customer shall accept delivery by instalments. Where there is such delivery by instalments these conditions will apply to each instalment as if it formed the subject matter of a separate and independent contract, provided that failure by the company to deliver any instalments shall not entitle the customer to cancel or suspend this agreement or any such instalments.
- 11: DESCRIPTIONS: The descriptions, specifications, illustrations and material in any catalogues, price lists or other trade literature of the company are of a generally informative nature only and do not form part of any order, contract or description of amount to any representation or warranty, and none of them form part of or are intended to form of any contract or give rise to any independent or collateral liability of whatsoever nature on the part of the company. Without prejudice to the generality of clause 1 the company shall incur no liability to the customer for any innocent or negligent misrepresentation by virtue of any statement made by or on behalf of the company prior to this contract, whether orally or in any letter, document or sales literature and the customer shall not be entitled to rescind any contract on the grounds of any such misrepresentation.
- 12: INTELLECTUAL PROPERTY: The customer shall indemnify the company against all costs, claims, expenses, damages, charges or liabilities whatsoever in respect of, or arising from any third party intellectual property rights relating to any goods supplied to the designs or following the instructions of the customer.
- 13: LIMITATION OF LIABILITY: The Company excludes liability of damage to the customers reputation or goodwill, any loss resulting from any claim made by a third party, or any loss of profit, business, contract, revenues or anticipated savings and any special indirect or consequential damage or loss of any nature whatsoever, even if the company has been advised of such loss or damage. Without prejudice to the above company's liability in contract, tort (including negligence or breach of statutory duty) or otherwise arising directly by reason of or in connection with a contract by the company or its employees shall be limited to (one and one quarter times) the contract price.
- 14: FINANCIAL CONDITION AND DEFAULT: If in the company's judgement, the customer's final condition is such as could adversely affect the customer's ability to perform any of its obligations hereunder or if the customer is in default on any of its obligations to the company whether hereunder or under any other contract the company may terminate this contract and/or any other contract between the company and the customer. The company may also cancel any uncompleted order or suspend delivery and if it does so the customer shall indemnify the company against all its costs, charges, expenses and damages incurred thereby.
- 15: SET-OFF: in relation to any payment due hereunder the customer hereby waives any and all rights of set-off or counter claim present or future.
- 16: MISCELLANEOUS: no right of power or remedy herein conferred on or reserved to the company is exclusive of any other right power or remedy available hereunder or in law or equity. No waiver or concession by the company of any breach of contract by the customer shall be valid unless made in writing and further, no waiver or concession by the company of any breach of the same shall be considered as a waiver of any subsequent breach of the same or any other provision. The headings of clauses shall be disregarded in construing this agreement.
- 17: FORCE MAJEURE: The company shall not be liable for non-performance in whole or in part of its obligations if this is attributable to any cause beyond the control of the company including (without limitation) any act of God, force majeure, war, civil war or disturbance, rebellion, embargo, strike, labour dispute, illness, flood, fire, tempest, sabotage or government regulation or shortage of materials. Without prejudice to the generality of the above, if by reason of any cause referred to above, the quantity of goods available to the company is at any time reduced so as to be insufficient to satisfy the whole of the company's own requirements for use and the company's contractual commitment for the supply of goods entered into prior to the commencement of such reduction, then for so long as such insufficiency shall continue the company have the right to apportion (without liability to the customer) such quantity of goods as is available pro rata among itself and those persons (including the customer) with whom the company has contractual commitments as aforesaid and the company shall have no obligation to acquire by purchase or otherwise any shortfall of goods which the company is, by reason of any such clause, unable to supply to the customer.
- If a contract or order or any part thereof shall become impossible of performance or otherwise frustrated, the company shall be entitled to reasonable remuneration for any work done up to the date of such impossibility or frustration due credit being given for any amounts in respect of the contract or order paid by the customer.
- 18: NOTICES: Any notices to be given hereunder may be served either personally or by pre-paid post sent to the relevant party at its address set out on the order or its registered office, and shall in the case of posting be deemed to have been served forty-eight hours after it is proved to have been put in the post properly address.
- 19: LAW: These conditions and the contract to which the document relates and all matters concerning and all disputes arising from such contract shall in all respect be governed by and construed in accordance with English Law. The provisions of (1) The Uniform Law on the formation of contracts for the International Sale of Goods of 1964 and the convention relating thereto. (2) The United Nations Convention on contracts for the International Sale of Goods 1980 shall not apply to this contract. The parties hereto agree to submit to the exclusive jurisdiction of the English courts save that the company shall be entitled to seek injunctive or any other relief or remedy in the courts of any jurisdiction whatsoever.
- 20: EXPORT SALES: (Notwithstanding any other term or condition where goods are sold for export outside the United Kingdom):  
20.1: The Uniform Laws on International Sales Act 1967 shall not apply.  
20.2: The currency shall be Pounds Sterling unless otherwise stated on the company's acknowledgement of order. Prices quoted in acknowledgement of order in a currency other than Pounds Sterling may, unless otherwise agreed in writing, be subject to amendment in the event of fluctuation in the exchange rate prior to the date of invoice.  
20.3: The Company shall be under no obligation to give the customer notice as specified in section 32 (3) of the Sales of Goods Act 1970.  
20.4: A deposit of 50% (or such other percentage as the company may in its absolute discretion stipulate) of the contract price shall be due and payable by the customer in cleared funds, upon placing an order, unless otherwise agreed in writing.  
20.5: Without prejudice to the generality of (clause 5), the customer shall be solely responsible for obtaining all import authorisations and the export or re-export of the goods is subject to compliance with the export control law and the regulations of England. The customer shall not knowingly directly or indirectly export or re-export the goods to any country proscribed from time to time pursuant to such regulations; and  
20.6: Payment shall be by the way of either IBAN/BACS or confirmed irrevocable letter of credit to be opened at a bank nominated by the company at the customer's expense, unless the company agrees in writing to a different method of payment.