



TERMS AND CONDITIONS

- 1 All contracts for the sale and/or manufacture of goods and services by Niko Ltd (hereinafter called "the suppliers") shall incorporate these conditions, as shall all quotations and offers. No officer or employee of the suppliers has authority to contract on terms or conditions inconsistent with these conditions. Neither the performance in whole or in part of the customers order nor any other conduct whatsoever on the part of the suppliers shall be construed as the acceptance by the suppliers of terms and conditions inconsistent with these conditions.
- 2 If under any applicable rule of law any provision of these conditions shall be void or otherwise unenforceable these conditions shall be void or as the case may be unenforceable to that extent but no further.
- 3 a) All prices set out in this document are subject to and conditional upon there being no rise in the cost to the suppliers of any of the goods, materials or components or any part thereof between the date of giving the quotation set out in this document and the delivery of those goods, materials or components to the customer. In the event of there being such a rise in the cost to the suppliers, the suppliers shall be entitled to invoice the customer at such prices as represent the prices set out in this document together with any additional costs to the suppliers as aforesaid and thereupon such prices shall represent the contract prices in lieu of any prices set out in this document in respect of the same goods, components or materials and the customer shall pay such higher prices as if the same were expressly set out in this document.
- b) All prices set out in this document are exclusive of Value added Tax which will be charged at the rate current at the date of despatch, delivery or installation whichever shall be the tax point.
- 4 a) The quoted delivery/installation period is calculated from the date when the customer supplies full information and does all other things which are necessary for the carrying out and completion by the suppliers of the contract.
- b) Whilst every reasonable endeavour will be made to maintain the proposed delivery and/or installation date the suppliers will not be responsible for any loss incurred by reason of late delivery or installation and they reserve the right to suspend any delivery or installation in whole or in part in the event of any strike, lock-out, accident, or other happening operation to cause the entire or partial stopping of the suppliers work and/or labour force.
- c) The suppliers shall further be relieved of all liability incurred under the contract in the event of and to the extent of which the fulfilment of their contractual obligations is prevented, frustrated or impeded as a consequence of:
- i) Conforming to any statute, rule, regulation, order or requisition issued or promulgated by any Government, Government department, Local Authority or other accepted authority.
- ii) Any failure on the part of any of the suppliers to conform to any promised or contractual delivery date.
- d) Without prejudice to the provisions of clause 4(a) and 4(b) hereof the suppliers shall be under no liability whatsoever for any delay in either the delivery of any goods, materials, or components or the carrying out or completion of any installation work howsoever caused other than the culpable neglect or default of the suppliers. The liability on the part of the suppliers for any such delay is subject to and limited by Clause 4(e) hereof.
- e) The quoted delivery or installation period shall not be regarded as of the essence of the contract and in no circumstances whatsoever shall the customer be entitled to treat the contract as discharged or to reject any goods, materials or components by reason of any delay in either the delivery of any goods, materials or equipment or the execution or completion of any installation work, howsoever caused. In the event of the suppliers being liable for any delay in accordance with Clause 4(d) hereof the customers sole remedy shall be in damages.
- f) Notwithstanding any delay in the delivery of any goods, materials or equipment other than delay due to culpable neglect or default on the part of the suppliers, the customer shall be liable to pay for the goods, materials and components in accordance with Clause 3(a) hereof.
- 5 All terms have been supplied in accordance with our certified registration to ISO 9002 for stockists.
- 6 i) In the event of any of the goods, materials or components supplied pursuant to this contract being defective at the time of their supply and if such defect be discovered within a period of 12 calendar months from the date such supply, the suppliers shall at their option repair or replace the said goods, materials or components.
- ii) In the event of any installation work carried out by or on behalf of the suppliers pursuant to this contract being defective by reason of bad workmanship on the part of the suppliers their servants or agents then in the event of such defective installation work being discovered within a period of 12 months from the date of the completion of the installation work, the suppliers shall at their option, repair or replace the defective installation work in question.
- Provided that:**
- a) The suppliers shall be under no liability whatsoever under clause 6(i) and 6(ii) unless such defect shall have been notified to them in writing within 10 days of the discovery thereof.
- b) The suppliers shall be under no liability whatsoever under clause 6(i) and 6 (ii) or otherwise in relation to any defect caused or contributed to by the negligence of the customer, his servant or agents and/or the use and/or operation of such goods, materials or components or installation work other than that completely in accordance with the suppliers or other manufacturer's recommendations or instructions.
- c) In the event of a defect being alleged by a customer to exist in any of the goods, materials or components supplied pursuant to this contract and subject to the clauses (a) (b) (d) (e) and (f) of this proviso, the suppliers will, if so requested by the customer, send to the customer, advance goods, materials or components to replace the same, subject to and conditional upon such replacement goods, materials or components being available to the suppliers. Thereupon such replacement goods, materials or components will be invoiced to and paid for by the customer at the suppliers current prices at the date of despatch of the replacements save that the suppliers will give credit to the customer in respect of the price if any paid by the customer to the supplier in respect of the goods, materials or components replaced upon:-
- A) The return to the suppliers of the goods and materials and components so replaced and
- B) The suppliers being satisfied upon reasonable grounds that they are liable in respect of the defect in question in accordance with all the other provisions of this proviso.
- d) The suppliers will be under no liability to accept the return of any of the goods, materials or components unless they have previously agreed with the customer in writing to accept such return.
- e) All costs or expenses arising out of or in connection with the return of any of the goods, materials or components to the suppliers and including all costs of insurance carriage or transportation shall be paid for by the customer.
- f) Any goods, materials or components returned to the suppliers for repair shall remain at the risk of the customer at all times, and any goods, materials or components returned to the suppliers for the purpose of replacement, pursuant to clauses 6(i) and (ii) hereof shall remain at the risk of the customer until receipt thereof by the suppliers.
- iii) Notwithstanding the provisions of sub-clauses 6 (i) and (ii) hereof, the suppliers shall in no circumstances be liable for any defect whatsoever arising out of wear and tear or accident, or caused or contributed to or aggravated in any way by the misuse, neglect, internal adjustment or modification or servicing by any other person or persons other than employees of the suppliers or their accredited agents or for any defect caused or contributed to or aggravated by the failure of any other person or persons than the suppliers or their accredited agents to observe recommended maintenance and/or servicing programmes or recommendations.
- iv) When goods, materials or components are supplied by the suppliers subject to any test or inspection or when installations have been effected by the suppliers subject to any test or inspection, such test or inspection must be carried out at the sellers premises, and the results of such test and/or inspection shall be conclusive evidence as to whether the goods, materials or components or installation complies with all or any aspects with the requirements under this contract and thereafter, if as a result of such test and/or inspection it appears that the goods, materials or components and installation comply in all aspects with the requirements of this contract, the suppliers shall be under no further liability whatsoever in respect of the goods, materials or components or installation of any of the defects therein.
- 7 i) In the event of the customer wishing to operate a trade credit account he must provide in writing his full name and (registered) address, the name and address of his bankers and the branch and account number, and in addition one trade reference. Unless prior arrangements have been made in writing, all goods, materials or components and all installations are supplied and effected on a pro-forma cash with order or cash on delivery or completion basis at the option of the suppliers.
- ii) Where a credit account is operated in accordance with clause 7(i) hereof, payment shall be made by the customer net cash, within 30days from the end of the month in which the invoice was issued. An interest charge of 5% will be levied for late payment.
- iii) The risk in the goods shall pass from the seller to the buyer upon delivery of such goods to the buyer. However, notwithstanding delivery and the passing of risk in the goods, title and property in the goods, including full legal and beneficial ownership, shall not pass to the buyer until the seller has received in cash or cleared funds payment in full for all goods delivered to the buyer under this and all other contracts between the seller and the buyer for which payment of the full price of the goods thereunder has not been paid. Payment of the full price of the goods shall include the amount of any interest or other sum payable under the terms of this and all other contracts between the seller and the buyer under which the goods were delivered..