

LAPSTONE ENGINEERING LTD.
TERMS AND CONDITIONS OF TRADING (“CONDITIONS”)

1. Incorporation of Conditions

- 1.1 All contracts entered into between us shall be deemed to incorporate these Conditions and no amendment or addition shall be binding on us unless agreed in writing by an authorised representative of our company.
- 1.2 The applicability of any terms and conditions proffered by you is hereby excluded, unless expressly agreed in writing by an authorised representative of our company. You accept that in entering into a contract for the supply of goods and/or services with us you have not relied upon any prior promises, representation or undertakings given by us which are not contained within these Conditions.

2. Quotations and Price

- 2.1 The price quoted excludes VAT (unless otherwise stated). VAT will be charged at the rate applying at the time of delivery and/or performance of the service.
- 2.2 No quotation by us shall constitute an offer by us and all quotations are subject to withdrawal without notice. Quotations may be given orally and in writing.
- 2.3 Subject to condition 2.2, quotations lapse 7 days after the date of quotation (unless otherwise stated).
- 2.4 The price quoted excludes delivery, delivery pallets, crates, and other packaging materials unless otherwise stated in writing at the time of your order. There will be no reduction in the price if you collect the goods.
- 2.5 Unless stated otherwise, all prices are those ruling at date of quotation. Any increase in costs of labour, materials or transport after the quotation date will be charged extra.
- 2.6 Other than as imposed by law, rates of tax and duties on the goods and/or services will be those applying at the time of delivery and/or performance.

3. Delivery

- 3.1 Times or dates for delivery are commercial estimates only and are not contractual obligations of the Company. The company will make every endeavour to deliver or perform by the time or date given, but will not accept cancellation or any liability whatsoever for failure or delay in despatch. Delivery is deemed to be effected .
- 3.2 If the customer is to collect the goods upon notification they are ready for collection.
- 3.3 In any other case as soon as the goods are despatched from the Company`s premises.
- 3.4 Delivery may be suspended pending any contingency beyond the Company`s control (such as fire, accident, war, strike, breakdown, lockout, government priority order, transport difficulty or delay, force majeure, shortage of labour, fuel or raw materials or otherwise) thus preventing or delaying the manufacture or despatch of goods and all contracts are accepted on the condition that the Company shall be exempt from all liabilities arising from any such occurrence.
- 3.5 Time for delivery shall not be of the essence of the contract.
- 3.6 We may deliver the goods in instalments. Each instalment is treated as a separate contract.
- 3.7 We may at our discretion, deliver the goods from any place that we wish and, unless otherwise agreed, if we are arranging carriage, we may choose any reasonable method of carriage.
- 3.8 If delivery does not take place because you are at fault or for reasons beyond our control, we may store and insure the goods at your expense. We may deliver the goods as soon as possible but we have the right to sell them after a period of 14 days storage. We may recover such costs of storage and insurance costs together with our costs of attempting to supply the goods as well as the sale price to have been charged to you exceeding the proceeds of such sale, you agree that we may recover any such excess directly from you.
- 3.9 We have the right to pass on to you any unforeseen additional costs we incur when trying to deliver the goods and/or perform the services.

- 3.10 You are responsible for providing (at your cost) sufficient labour and materials for unloading the goods.
- 3.11 Neither our carrier nor we are responsible for unloading the goods into your premises.
- 3.12 If the driver leaves the vehicle at your request while the goods are being unloaded, we shall not be liable for any shortages.
- 3.13 The goods may be delivered to you in advance of the quoted delivery date.

4. Delivery and Safety

- 4.1 We may decline to deliver the goods if:
 - 4.1.1 we believe or our carriers believe that it would be unsafe, unlawful or unreasonably difficult to do so; or
 - 4.1.2 the premises (or the access to them) are unsuitable for our vehicle. And the provisions of condition 3.8 shall apply.

5. Application for Credit and Payment Terms

- 5.1 You are to pay us the quotation price in cash or otherwise in cleared funds on or before delivery and/or performance as well as, upon delivery and/or performance, any uplift in the price in terms of condition 2.5, unless you have an approved credit account. If you fail to do so, we may decline delivery and/or performance and the provisions of condition 3.8 shall apply to the delivery of the goods.
- 5.2 If you have an approved credit account, payment is due no later than the end of the month following the month of delivery unless otherwise agreed in writing.
- 5.3 We will only consider an application for a credit account subject to the satisfactory completion of our 'Application to Open a Credit Account' ("Application Form").
- 5.4 By completing and returning the Application Form, you:
 - consent to us carrying out such credit referencing as we shall consider appropriate; and
 - accept that all business transacted with us shall be on and subject to these Conditions.
- 5.5 We may in our absolute discretion decline any application for credit and shall not or be required to give any reason therefore.
- 5.6 If you have an approved credit account, we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may do any of those at any time without notice.
- 5.7 We reserve the right to cancel the credit agreement applicable to your credit account in the event of any change in the ownership of your company.
- 5.8 If you fail to pay us in full in accordance with condition 5.1 or 5.2;
 - 5.8.1 we may suspend or cancel future deliveries and/or services;
 - 5.8.2 we may cancel any discount offered to you;
 - 5.8.3 you must pay us interest at the rate equivalent to that set for the purposes of section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 as amended, extended or re-enacted;
 - a. calculated (on a daily basis) from the date of our invoice until payment;
 - b. compounded on the first day of each calendar month; and
 - c. before and after any judgement or decree (unless the court orders otherwise).
- 5.9 You do not have the right to set off any money you may claim from us against anything you may owe us.
- 5.10 While you owe money to us, we have a lien on any of your property in our possession.
- 5.11 You are to indemnify us in full from all expenses and liabilities we may incur (directly or indirectly and including without limitation, all advisory costs including legal costs) following any breach by you of any of your obligations under these Conditions.

6. Title

- 6.1 Until you pay all debts you may owe us
 - 6.1.1 all goods supplied by us remain our property;
 - 6.1.2 you must store them so that they are clearly identifiable as our property and in or on premises to which you are able to grant us access in terms of condition 6.4;
 - 6.1.3 you must insure them and keep them insured for the full amount due (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;
 - 6.1.4 you may use those goods and sell them in the ordinary course of your business and until payment is made in full, all proceeds of such sale is to be held in trust for us, but you may not use or sell these goods if
 - a. we revoke that right (by informing you in writing); or
 - b. you become insolvent as defined in condition 16.5.
- 6.2 Until you pay us all debts you may owe us, you must inform us (in writing) immediately if you become insolvent as defined in condition 16.5.
- 6.3 Until you pay us all debts you may owe us, if your right to use and sell the goods ends you must allow us to remove the goods.
- 6.4 Until you pay us all debts you may owe us, we have your permission to enter any premises where the goods may be stored:
 - 6.4.1 at any time, to inspect them; and
 - 6.4.2 after your right to use and sell them has ended in accordance with condition 6.1.4, to remove them.
- 6.5 Until you pay us all debts you may owe us, despite our retention of title to the goods, we have the right to take legal proceedings to recover the price of goods supplied together with interest should you not pay us by the due date.
- 6.6 You are not our agent. You have no authority to make any contract on our behalf or in our name.

7. Risk

- 7.1 The goods are at your risk from the time of delivery.
- 7.2 Delivery will be deemed to have taken place either:
 - 7.2.1 at our premises, when you or your carrier have collected the goods (see also 3.2); or
 - 7.2.2. at the agreed delivery address, when you have unloaded the goods (if we are arranging carriage).
- 7.3 You must inspect the goods on delivery. If any goods are damaged on delivery (or only partially Delivered) you must mark the advice note accordingly and notify us (in writing) within 24 hours of delivery and before their use or resale. You must give us (and any carrier) a reasonable opportunity to inspect the damaged goods.
- 7.4 If there is a complete failure of delivery, you must notify us in writing within 24 hours of receipt of our despatch documents or our invoice whichever is earlier. You will be deemed to have received delivery if you do not do so.
- 7.5 If the goods are carried by an independent carrier we will only consider claims under conditions 7.3 or
- 7.4 if you have complied in all respects with the carrier's conditions for notifying claims for loss or damage in transit.

8. Warranties

- 8.1 Except where otherwise provided, we warrant that the goods:
 - 8.1.1 comply with their description on our advice note; and
 - 8.1.2 are free from material defect at the time of delivery.
- 8.2 We give no other warranty (and exclude any warranty, term or condition that would otherwise be implied) as to the quality of our goods or their fitness for any purpose and in particular (although

without limitation) for any goods which we have prepared in accordance with your specification or instructions.

- 8.3 The warranty in condition 8.1.2 does not apply to goods sold as 'non-prime', or 'untested' and we are not liable for any defect in those goods, except where specifically provided by law. You are to indemnify us in respect of any claim made against us in respect of goods supplied to you as 'non-prime' or 'untested'.
 - 8.4 If you believe that we have delivered goods that though undamaged are defective you must:
 - 8.4.1 inform us (in writing), with full details, within 24 hours discovering the alleged defect; and
 - 8.4.2 allow us to investigate in terms of condition 6.4 (we may need access to your premises and the goods).
 - 8.5 If the goods are found to be defective in material or workmanship (following our investigations, and you have complied with those conditions (in condition 7.3 and 8.4) in full, we will (at our option) replace the goods or refund the price.
 - 8.6 We are not liable for any other loss or damage (including indirect or consequential loss, financial loss, loss of profits or loss of use) arising from the contract or the supply of goods or their use, even if we are negligent.
- Free Issue Materials.** Although every care is taken in handling Customers free issue materials, we are not responsible for the behaviour of the material during any process. If the material collapses, distorts, fractures or breaks during any process, we will not accept any claims whatsoever for its loss. Free issue materials are issued to us entirely at the customers own risk.
- Design.** We have no in house design facilities, and we offer a subcontract manufacturing and finishing service only.
- Material Certification.** Material certificates will be supplied on request. We have no in house metallurgical facilities and are reliant on material supplier's supplying materials to the correct specification. Any claims for non-specification materials, represents no negligence by us and will be passed on to the material supplier.
- 8.7 Any re-working, repair or re-manufacturing of faulty or damaged goods (if appropriate) will take place at our Company premises and you must return goods to us for this to be carried out. Carriage will be at your expense.
 - 8.8 If you intend for any further services or works to be carried out on any goods supplied by us, ie. electro-plating, galvanizing, heat treatment, painting etc. you must ensure that you have thoroughly inspected and tested goods, and satisfy yourselves that they are free from any defects before any such services are carried out, especially if the subcontractor for the next service is to collect directly from us. We are not liable for costs of any further services or treatments on goods supplied by us.
 - 8.9 No warranty is given for powder coating or painting
 - 8.10 No warranty is given for welding or mechanical repairs.

9. Quantities and specifications

- 9.1 If we prepare the goods in accordance with your specifications or instructions, you must ensure that the specifications or instructions are in writing and are accurate. You must ensure that goods prepared in accordance with those specifications or instructions will be fit for the purpose for which you intend to use them. We accept no liability for any claim whatsoever relating to fitness for purpose for goods which have been prepared in accordance with your specifications or instructions other than that they would not have been so prepared.
- 9.2 We are not obliged to supply test certificates unless you request them when you order the goods. We may charge you for test certificates.
- 9.3 Goods are normally sold by the number of items ('quantity') or weight (weighed or calculated). When sold by weight, which includes pallets and any packaging, we are not liable for any quantity variation.

- 9.4 Unless otherwise agreed in writing, we shall have fulfilled our contractual obligation to you in terms of the quantity to be supplied, if the quantity supplied is within +/- 10% of the appropriate quantity of that specified on our advice note. The price and our charges will reflect the actual quantities delivered.
- 9.5 Goods will be supplied within the current British or European Standards (as appropriate) unless otherwise expressly agreed in writing.
- 9.6 If we agree that you may inspect or test the goods before delivery we will notify you when they are ready for inspection or testing. You must inspect or test the goods within 24 hours of our notification to you. Within 24 hours of your inspection you must tell us in writing if the goods are not as specified in the contract between us. If you do not do so you are deemed to accept that the goods are as contracted.
- 9.7 If the goods are to be manufactured or any process is to be applied to the goods by us in accordance with a specification submitted to us by you, you shall indemnify us against all loss, damages, costs and expenses awarded against or incurred by us in connection with, or paid or agreed to be paid by us in settlement of, any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from our use of your specification.
- 9.8 We reserve the right to make any changes in the specification of the goods which are required to conform with any applicable statutory or E.U. requirements or, where the goods are to be supplied to our specification, which do not materially affect their quality or performance.
- 9.9 No order that has been accepted by us may be cancelled by you except with the agreement in writing by us, and on terms that you shall indemnify us against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by us as a result of cancellation.

10. Return of Goods

- 10.1 We will accept the return of goods from you only:
 - 10.1.1 by prior arrangement (confirmed in writing by us);
 - 10.1.2 in cases, where the goods are as fit for sale on their return as they were on delivery.

11. Export Terms

- 11.1 Condition 11 of these Conditions applies to exports except where inconsistent with any written agreement between us.
- 11.2 Where we export goods to you (from the United Kingdom) the 'Incoterms' of the International Chamber of Commerce in force at the time the contract is made apply.
- 11.3 The Incoterms are treated as amended by these terms (read as a whole) to the extent that they are inconsistent with them.
- 11.4 You are responsible for complying with any legislation or regulations governing the importation of the goods into the country of destination and for the payment of any duties due.
- 11.5 Where we are to send the goods to you by a route including sea transport we are under no obligation to give a notice under 32(3) Sale of Goods Act 1979 as amended, extended or re-enacted.
- 11.6 You are responsible for arranging the testing and inspection of the goods at our premises before shipment except where otherwise agreed and condition 9.6 shall apply. We are not liable for any defect in the goods which would be apparent on inspection unless a claim is made before shipment. We are not liable for any damage during transit.
- 11.7 Payment of all amounts due to us shall be made as stipulated by us unless otherwise agreed in writing and in such circumstances condition 5 shall not apply.
- 11.8 We shall have no liability for death or personal injury arising from the use of the goods where the goods are to be delivered in the territory of another State (within the meaning of s.26 (3) Unfair Contract Terms Act 1977 as amended, extended or re-enacted).

12. Cancellation

- 12.1 If the order is cancelled (for any reason) you are then to pay us for all stock (finished or unfinished) that we may there hold (or to which we are committed) for the order.
- 12.2 We may suspend or cancel the order, by written notice if:
 - a. you fail to pay us any money when due (under the order or otherwise);
 - b. you become insolvent in terms of condition 16.5;
 - c. you fail to honour your obligations under these Conditions.
- 12.3 You may not cancel the order unless we agree in writing (and condition 12.1 then applies).
- 12.4 The contract may be suspended or cancelled by us at any time without notice.

13. Waiver and Variations

- 13.1 Any waiver or variation of these Conditions is binding only if it is:
 - 13.1.1 made (or recorded) in writing;
 - 13.1.2 signed on behalf of each party; and
 - 13.1.3 expressly stating an intention to vary these Conditions.

14. Force Majeure

- 14.1 If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of circumstances beyond our control, we may cancel or suspend any of our obligations to you, without liability.
- 14.2 Examples of those circumstances include act of God, accident, flood, explosion, fire, transport delays, strikes, act of terrorism and other industrial disputes and difficulty in obtaining supplies.

15. Data Protection

- 15.1 We may use and you agree that we may use and disclose personal information about you to third parties for the purpose of supplying goods and /services to you and processing invoices and statements. In respect of any of your personal data held by us, we agree to comply with the provisions of the Data Protection Act 1998.

16. General

- 16.1 Any contract made under these Conditions where the return address on the Application Form is situated in England or Wales, shall be governed by and construed under English law and the English courts shall have exclusive jurisdiction in respect of such contract.
- 16.2 If you are more than one person, each of you has joint and several obligations under these Conditions.
- 16.3 If any of these Conditions are unenforceable as drafted:
 - 16.3.1 it will not affect the enforceability of any other of these Conditions; and
 - 16.3.2 if it would be enforceable if amended, it will be treated as so amended:
- 16.4 We may treat you as insolvent if:
 - 16.4.1 you are unable to pay your debts as they fall due; or
 - 16.4.2 you (or any item of your property) become the subject of:
 - a. any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);
 - b. any application or proposal for any formal insolvency procedure; or
 - c. any application, procedure or proposal overseas with similar effect or purpose.
- 16.5 All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us and you should not rely on them in entering into any contract with us.
- 16.6 Any notice by either of us which is to be served under these Conditions may be served by leaving it at or by delivering it to (by first class post or by fax) the other's registered office or principal place of business. All such notices must be signed by an authorised signatory.

- 16.7 Unless expressly agreed otherwise if the contract is governed by the laws of England and Wales pursuant to condition 16.1 no contract between us will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the buyer or the seller.
- 16.8 The only statements upon which you may rely in making the contract with us, are those made in writing by someone who is our authorised representative and either:
- 16.8.1 contained in our estimate (or any covering letter) and not withdrawn before the contract is made; or
- 16.8.2 which expressly state that you may rely on them when entering into the contract.
- 16.9 Nothing in these Conditions affects, or limits, our liability for fraudulent misrepresentation.
- 17. CE Marking**
- 17.1 Please note that Lapstone Engineering Ltd is NOT registered for CE marking for the construction industry.
- We cannot produce any items that are part of a construction project, and if items that we have made are incorporated into a construction project, you indemnify us from any further action.