



## **General Conditions of Sale, Purchase, Delivery and Services – January 2019**

### 1.0-Definitions

The contract means the agreement between the seller and the buyer as regards to the products, services and goods. The product means the goods, products or services which shall be the subject of the contract between the seller and the buyer. The seller means Quality Pipe Supports (QPS) LTD, on whom an order is placed and formally accepted. The buyer means the person, firm or company purchasing the goods/products or service.

### 2.0-Scope

These general conditions set out the standard terms on which the seller supplies the products to the buyer and they shall apply to all quotations and sales unless otherwise agreed in writing. The seller shall not be bound by conflicting purchasing conditions or reservations made by the buyer even if the seller has not explicitly contradicted the conditions or reservations. The buyer may not assign his rights and obligations under these general conditions.

The legality, validity and enforceability of other clauses in these general conditions will not be affected if one of the clauses is or becomes illegal, invalid or unenforceable.

### 3.0-Quotations and Orders

3.1 The Seller shall sell and the Buyer shall purchase the Goods and/or Services in accordance with any Quotation or Order Acknowledgement of the Seller which is accepted by the Buyer or any Order which is accepted by the Seller in writing, subject in either case to these Conditions which shall, subject to any variation in accordance with these Conditions, govern the Contract to the exclusion of any other terms and conditions provided that in the case of conflict between any term of these Conditions or a term of the Quotation and/or Contract, these Conditions shall have precedence.

3.2 In entering into the Contract the Buyer acknowledges that it does not rely on, and hereby waives any claim against the Seller for breach in relation to any representations made by the Seller which are not confirmed subsequently in writing.

3.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

3.4 The Contract shall be formed upon the Buyer's acceptance of any written Quotation of the Seller, or upon any Order of the Buyer being acted upon by the Seller or accepted by the Seller in writing.

3.5 The Contract constitutes the entire agreement between the parties.

3.6 Any samples, drawings, descriptive matter or advertising issued by the Seller and any descriptions of the Goods or illustrations or descriptions of the Services issued or published to set out those Services and/or Goods so described (whether in this Contract or elsewhere) shall not form part of the Contract or have any contractual force unless otherwise agreed in writing by the Seller.

3.7 A Quotation is an offer by the Seller conditional upon the Seller approving the Buyer's credit and therefore shall not be capable of forming a contract binding upon the Seller until such time as the credit worthiness of the Buyer has been approved by the Seller.



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3.8. No Order which has been accepted or acknowledged by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller. Notwithstanding the Seller's agreement to the cancellation, the Buyer shall fully indemnify the Seller in the event of cancellation, in full against any or all losses (including consequential loss and loss of profit), costs (including the cost of all labour and materials used and including the cost of cancellation of any third party orders placed by the Seller in order to fulfil the contract, transportation and warehousing costs), damages, charges and expenses incurred by the Seller as a result of such cancellation.

3.9 The Seller reserves the right to subcontract any Order or part of any Order without giving notice to the Buyer.

3.10 The Buyer may only request a change to an Order in writing, and for the avoidance of doubt the Seller is under no obligation to accept such change request. In the event that changes to an Order are agreed to by the Seller, such changes will be subject to charges for all costs occasioned by such change(s), and the Seller will be under no obligation to implement said changes unless and until the Buyer agrees to pay such additional costs in writing.

3.11 No Quotation is valid unless in writing.

3.12 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Buyer, the Buyer shall indemnify the Seller against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Seller in connection with any claim made against the Seller for actual or alleged infringement of a third party's intellectual property rights, patents, copyrights or design trademarks arising out of or in connection with the Seller's use of the Goods Specification. This condition shall survive termination of the Contract.

3.13 The seller's quotation for goods/ products is valid for 30 days from the date of the quotation unless otherwise agreed in writing. The quotation shall be void if the buyer does not accept the quotation unconditionally by placing a written order within 30 days.

4.1 The Goods

4.2 The Seller shall not be liable if such Goods being a component part or parts are not suitable for use with other parts purchased by the Buyer from persons other than the Seller or if such parts do not together perform in the manner required by the Buyer, or if the Goods are not used and/or applied by the Buyer as directed by the Seller.

4.3 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any Order (including any applicable specification) and for giving the Seller any necessary information relating to the Goods and/or Services within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

4.4 The quantity, quality and description of and any specification for the Goods and/or Services shall be those set out in the Order (to the extent accepted and/or amended by the Seller in accordance with the terms of condition 2.4 above).

4.5 The Seller reserves the right to make any changes to the Order for the Goods and/or Services which are required to conform with any applicable safety or other statutory requirements or, where the Goods and/or Services are to be supplied to the Seller's specification which do not materially affect their quality or performance.

4.5. All drawings, designs, specifications and other information provided by the Seller are confidential and all rights of copyright ownership and other intellectual property rights in respect of



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them shall remain vested in the Seller and shall not pass to the Buyer.

### 5.0-Prices and terms of payment

The prices in the sellers price lists applicable on the date of conclusion of the contract shall apply, unless otherwise agreed in writing. Prices exclude taxes and duties as well as any loading and delivery costs that the buyer must pay.

All prices include standard packing but not pallets or crates for export packing

5.1 The price of the Goods and/or Services shall be the price(s) as set out in the Seller's Quotation and valid for 30 calendar days or such other timeframe as the Seller may specify, subject to revision in writing thereafter.

5.2 The Seller reserves the right to: a) increase its fee rates for the charges for the Services; and b) increase the price of the Goods, by giving 7 calendar days' notice to the Buyer at any time before delivery, to reflect any increase in the cost of the Goods to the Seller that is due to: any factor beyond the control of the Seller (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); apply additional costs in relation to any request by the Buyer to change the delivery date(s), quantities or types of Goods ordered, or the Order; or any delay caused by any instructions of the Buyer in respect of the Goods or failure of the Buyer to give the Seller adequate or accurate information or instructions in respect of the Goods for which the Buyer shall be liable.

5.3 All Goods and Services shall be paid for at the end of the following month after month of despatch (30 days nett monthly), unless otherwise agreed in writing or on a proforma basis.

5.4 In the event where an account is agreed:

5.4.1 – the Seller shall invoice the Buyer on or at any time after completion of delivery.

5.4.2 Buyers on account are subject to continual review and the Seller reserves the right to revoke such account facilities, without prior notice to the Buyer.

5.5 The price of the Goods is exclusive of delivery, insurance, and storage

5.6 The Seller shall be entitled to withhold supply of any further Services or, delivery of any further Goods (or any further delivery in the case of a delivery effected in instalments) in the event of the Buyer's non-payment in full in respect of the same. The Seller may, without limiting its other rights or remedies, set-off any amount owing to it by the Buyer (in respect of any outstanding account) against any amount payable by the Seller to the Buyer.

5.7 In the event Goods and/or Services are made available to the Buyer in time for the agreed supply date, but the Buyer instructs the Seller in writing to delay actual supply, then the Seller will accept such instruction on the strict condition that the invoice of the Seller (or any portion of the invoice as specified by the Seller) shall become immediately due and payable by the Buyer, and that furthermore, the Seller will have the option to render a storage charge and be indemnified in respect of all and any associated costs in respect of any Goods which need to remain in the care of the Seller until the date of supply which in any event shall be no later than 3 calendar months. Thereafter the Contract shall be automatically terminated unless otherwise agreed in writing. The Buyer will remain liable to the Seller for all and any outstanding costs.

5.8 The Buyer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against the Seller in order to justify withholding payment of any such amount in whole or in part.



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5.9 The Seller shall have a lien on any property of the Buyer in his possession for any sum due to the Seller.

5.10 Without limiting any other right or remedy of the Seller, if the Buyer fails to make any payment due to the Seller under the Contract by the due date for payment, the Seller shall have the right to charge interest on the overdue amount at the rate of 8% per annum above the then current base rate of the Bank of England, accruing on a daily basis from the due date of such payment until the date of actual payment of the overdue amount, whether before or after judgement, and compounding quarterly as per the Late Payment of Commercial Debts (Interest) Act 1998

5.11 Without limiting any other right or remedy of the Seller, if the Buyer fails to make any payment due to the Seller under the Contract by the due date for payment, the Seller shall have the right to charge an additional fixed penalty charge to a maximum of £100 as per the Late Payment of Commercial Debts Regulations 2002 in addition to clause 4.11 above.

5.12 Without limiting any other right or remedy of the Seller, if the Buyer fails to make a payment due to the Seller under the Contract by the due date for payment, the Seller shall reserve the right to recover any court costs from the Buyer, incurred from chasing the outstanding debt.

5.13 In the event where a Buyer requests financial arrangements such as a bank Advance Payment Guarantee (APG) or Letters of Credit (LOC):

5.14 the Buyer shall be liable for any additional costs incurred in the setup of such facilities in all instances.

5.14.1 the event of financial arrangements such as Advance Payment Guarantee or Letters of Credit, the Seller shall use reasonable endeavours to meet the time for the delivery of goods and/or supply of services but shall not be liable for any delay caused by such arrangements or any third parties involved.

5.14.2 In the case of 4.14. above, the Buyer shall be responsible for sourcing an appropriate financial institution to act on their behalf in the raising of such APG's/Letters of Credit, ensuring such institution is approved by the Seller's Bank.

5.15 All payments are to be made in £ GBP.

### 6.0-Delivery and Force Majeure

6.1 Delivery of the Goods/Services shall be made in accordance with the terms of the Order within normal working hours. Delivery of the Goods may also be made by the Buyer collecting the Goods at the Seller's premises at any agreed time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.

6.2 Any dates quoted for delivery of the Goods and/or supply of the Services are approximate only and time for delivery of the Goods and/or supply of the Services shall not be of the essence. Goods and/or Services may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer. The date(s) for delivery shall only commence upon full and final information from the Buyer and the approval of the Seller's information in writing by the Buyer.

6.3 The Seller may deliver the Goods by instalments which shall be invoiced and paid for separately (unless otherwise agreed by the Seller). Each instalment shall constitute a separate Contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the related series of Contracts as a whole as repudiated, or to cancel any other instalment.



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6.4 If the Buyer fails to take delivery of the Goods as agreed or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage.

6.5 The Seller shall use reasonable endeavours to meet the time for delivery of Goods and/or supply of Services but shall not be liable for delay caused by the following events:

6.5.1 the Seller not having received from the Buyer (or if appropriate from any third party) in due time any necessary instructions, information, calculations, drawings, details and/or parts;

6.5.2 the Seller's inability for reasons beyond his control to secure such Goods or materials or services as is essential to meet the requirements of the Buyer.

6.6 The Seller shall not be liable to the Buyer for delay in any event in the following circumstances:

6.6.1 if the Buyer is entitled to any extension of time for completion of any works pursuant to any contract the Buyer has with a third party;

6.6.2 if the Buyer would have been delayed in his performance of any other contract in any event due to the act or omission of any other person.

6.7 The Buyer shall not return any Goods to the Seller without the Seller's prior written authorisation. In any event any such return shall be made at the sole risk and expense of the Buyer. The Seller shall always be entitled to payment for these Goods in accordance with these Conditions.

(a) The buyer shall pay all costs incurred by the seller as a result of the buyers failure to take delivery either:

i) On the date stated in the invoice or the sellers confirmation, or

ii) When the products are ready, if the seller has notified the buyer in writing of their readiness, and the buyer has not taken delivery within seven days thereof, but never later than the date in (i) above, unless otherwise agreed in writing.

(b) If agreed between the parties that the products shall be transported at the sellers risk, the buyer must thoroughly inspect such products upon delivery. The buyer shall notify the seller in writing within 3 days from delivery of any damage, loss or shortages of the products. If the buyer does not receive the products on the agreed date of delivery, he must notify the seller in writing within 7 days. The seller disclaims all liability, and the buyer waives his rights to recovery, under the provision unless the buyers information is sufficient to allow the seller to make a valid claim against the carrier of the products for such damage, loss or shortage.

(c) The seller is released from his obligation to deliver the products on the original delivery date, and is allowed to extend the date of delivery, if events beyond his reasonable control (force majeure) prevent him from performing the contract. Should such events continue to prevent the seller from performing the contract, the seller may cancel the contract.



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- (d) The seller may withhold, reduce or suspend delivery of the products to reasonably allocate his supply capacity between the buyer and his other customers in events beyond his reasonable control prevent him from delivering all the products and fully comply with orders from his other customers. In such event, the buyer is entitled to cancel the undelivered order(s).

### 7.0-Passing of Risk and Title and Returns

- (a) The seller's liability for the products passes from the seller to the buyer at the earlier of the following two points in time:
- When the products are delivered to the buyer, the buyer agent, or a person that the buyer has authorised to accept delivery, or
  - The agreed date of delivery, if the buyer fails to take delivery as required under the contract.
- (b) The seller remains the owner of the products until he receives full payment for all products whether or not the products have been delivered to the buyer. If the buyer resells the products to a third party before the seller receives full payment, the proceeds of the sales shall first apply to pay all amounts due to the seller.
- (c) In the event that the buyer has not paid the full purchase price or if insolvency proceedings are commenced against the buyer, the seller or his representative is entitled to recover or resell the products and to enter the buyer's premises for that purpose and such steps shall not affect the seller's other rights.
- (d) All sales are final. The buyer is not entitled to credit for returned products whether or not he has made a complaint or a claim, unless otherwise agreed in writing in which case the buyer is obliged to return such products promptly and in good condition, carriage-paid.

### 8.1 Termination

8.2 The Seller may terminate the Contract without liability to the Buyer by giving notice to the Buyer at any time if: the Buyer breaches any material term of this Contract and (if such breach is remediable) fails to remedy that breach within 14 calendar days after receipt of notice in writing of the breach; the Buyer makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or becomes bankrupt or becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or the Buyer ceases, or threatens to cease, to carry on business; or any similar or analogous event occurs in any jurisdiction; or the Seller reasonably apprehends that any of the foregoing events is about to occur in relation to the Buyer and notifies the Buyer in writing.

8.3 Without limiting its other rights or remedies, the Seller may terminate the Contract:

8.3.1 by giving the Buyer 14 calendar days' written notice;

8.3.2 with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under this Contract on the due date for payment.

8.4 Without limiting its other rights or remedies, the Seller shall have the right to suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Buyer and the Seller if:



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8.4.1 the Buyer fails to make payment for any amount due under the Contract (or any other contract) on the due date for payment or

8.4.2 the Buyer becomes subject to any of the events listed under condition 11.1 or the Seller reasonably believes that the Buyer is about to become subject to any of them.

### 9.1 Consequences of Termination

9.2 On termination of a Contract for any reason:

9.2.1 the Buyer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Seller shall submit an invoice, which shall be payable by the Buyer immediately on receipt;

9.2.2 the accrued rights and remedies of the Seller as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

9.2.3 conditions which expressly or by implication have effect after termination shall continue in full force and effect.

### 10.0 -The Sellers Warranty and Limitations of Liability

The sellers liability for the products

- (a) The seller warrants that the products are of sound material and workmanship and conform to the published product information that applies at the date of purchase. This clause 8 provides the only warranty for the products, and it replaces and supersedes all other warranties for the products, whether express or implied. The seller shall have no other liability under this contract (express or implied), in tort or otherwise for the quality, performance, merchantability or fitness for any purpose of the products.
- (b) The sellers warranty does not include defects or damage that occur in areas that are not reasonably accessible through ordinary means of repair because of their shape or location. Nor does the sellers warranty include damage which is caused by mechanical damage, welding or other heating, bacterial attack, pollution, electromechanical actions, damage during repair, deterioration beneath applied coatings or friction, except for ordinary wear and tear. The seller is only liable under this warranty, if the buyer has:
  - i) Prepared all surfaces before coating and maintained them after coating
  - ii) Transported, stored, handled and used the products in accordance with all information given to the buyer by the seller
  - iii) Made a written claim documenting the alleged defect in or damage to the products within 3 days of the date when the buyer first become aware or could reasonably have become aware of the defect or the damage.
  - iv) Allowed the seller reasonable time to inspect the products and the area of their application
  - v) Complied with his obligations under the contract, including making timely payment of the purchase price, and
  - vi) Stopped using the products as soon as he detected or could have detected the defect
- (c) This warranty lapses automatically 12 months after the date of delivery



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### Limitation of Liability

- (d) The parties agree that the sellers liability to the buyer shall not exceed the invoices price for the products
- (e) The seller shall not be liable for any loss of profit or earnings, loss of time or loss of use of the machinery or equipment. In no circumstances shall the seller be liable for any special or indirect loss or damage whatsoever.
- (f) The seller shall not be liable for any infringement of a third party's intellectual property rights caused by the buyers use of the products.
- (g) Any exclusions or limitations of liability in this contract in favour of the seller are agreed to be extended for the benefit of all companies. The buyer agrees in the appointment of the seller as its agent or trustee solely for the extension of the benefit of the exclusions and limitations of liability.

### Limitation Period

- i) Subject to law as regards personal injury and death, the buyer shall have no claim against the seller, in contract or in tort, in relation to anything performed or delivered under the contract (including claims for defective products, services or goods), unless the seller has been notified in writing of such claims within 12 months of delivery.

### 11.1 Confidentiality

11.2 A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.