



5 Spring Gardens

Harwood

Bolton

BL2 3LU

## **AJP LOGISTICS LTD – CONDITIONS FOR SALE**

### **1 – INTERPRETATION**

In these conditions the following words have the following meanings;

“Contract” means a contract which incorporates these conditions and made between the Customer and the Supplier for the purchase of Purchase Goods;

“Customer” means the person, firm, company or other organisation buying Purchase Goods;

“Deposit” means any advance payment required by the Supplier in relation to the Purchase Goods which is to be held as security by the Supplier;

“Force Majeure” means any event outside a party’s reasonable control including but not limited to acts of God, war, flood, fire, labour disputes, strikes, sub-contractors, lock-outs, riots, civil commotion, malicious damage, explosion, terrorism, governmental actions and any other similar events;

“Purchase Goods” means any article, tool, and/or device together with any accessories specified in a Contract which are sold to the Customer;

“Services” means the services and/or work (if any) to be performed by the Supplier for the Customer in conjunction with the sale of Purchase Goods including any delivery service for the Purchase Goods;

“Supplier” means AJP Logistics Ltd and will include its employees, servants, agents and/or duly authorised representatives;

“Working hours” means any hours on a day between (and including) Monday-Friday, that is not a Bank Holiday.

### **2 - BASIS OF CONTRACT FOR PURCHASE**

(1) Purchase Goods are sold subject to them being available for sale to the Customer at the time required by the Customer. The Supplier will not be liable for any loss suffered by the Customer as a result of the Purchase Goods being unavailable for purchase where the Purchase Goods are unavailable due to circumstances beyond the Supplier’s control.

(2) Nothing in this Contract shall exclude or limit any statutory rights of the Customer which may not be excluded or limited due to the Customer acting as a consumer. Where the Customer is acting as a consumer any provision which is marked with an asterisk (\*) may, subject to determination by the Courts, have no

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force or effect. For further information about your statutory rights contact your local authority Trading Standards Department or Citizens Advice Bureau.

### **3 - PAYMENT**

(1) The amount of any Deposit, Sale and/or charges for any Services shall be as quoted to the Customer or otherwise as shown in the Supplier's current price list from time to time. Where a Deposit is required for the Purchase Goods it must be paid in advance of the Customer buying the Purchase Goods.

(2) The Customer shall pay the Purchase, charges for any Services, and/or any other sums payable under the contract to the Supplier at the time and in the manner agreed. The Supplier's prices are, unless otherwise stated, exclusive of any applicable VAT for which the Customer shall additionally be liable.

(3) Payment by the Customer on time under the Contract is an essential condition of the Contract. Payment shall not be deemed to be made until the Supplier has received either cash or cleared funds in respect of the full amount outstanding.

(4) If the Customer fails to make any payment in full on the due date the Supplier may charge the Customer interest (both before and after judgment/decreed) on the amount unpaid at the rate implied by law under the Late Payment of Commercial Debts (Interest) Act 1998 (where applicable) or at the rate of 4% above the base rate of the Supplier's bank whichever is higher.

(5) The Customer shall pay all sums due to the Supplier under this Contract without any setoff, deduction, counterclaim and/or any other withholding of monies.

(6) The Supplier may set a reasonable credit limit for the Customer. The Supplier reserves the right to suspend entering any future Contracts if this would result in the credit limit being passed.

### **4 - RISK OWNERSHIP AND INSURANCE**

(1) Risk in the Purchase Goods will pass immediately to the Customer when they leave the physical possession or control of the Supplier.

(2) Ownership of the Purchase Goods remains at all times with the Supplier until full payment is made by the Customer (and received by the Supplier).

(3) The Customer must not deal with the ownership or any interest in the Purchase Goods prior to payment being received in full by the Supplier. This includes but is not limited to selling, assigning, mortgaging, pledging, charging, securing, hiring, withholding, exerting any right to withhold, disposing of and/or lending.

### **5 - DELIVERY AND SERVICES**

(1) The Supplier agrees to deliver the Purchase Goods to the Customer. It will do so at a rate agreed with the Customer and such delivery will form part of the Services. The

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Customer may collect the Purchase Goods from a location agreed with the Supplier but will incur a £80 pickup/drop off charge per vehicle/load attendance unless agreed otherwise.

(2) Where the Supplier provides Services, the persons performing the Services are servants of the Customer and once the Customer instructs such person they are under the direction and control of the Customer. The Customer shall be solely responsible for any instruction, guidance and/or advice given by the Customer to any such person and for any damage which occurs as a result of such persons following the Customer's instructions, guidance and/or advice except to the extent that the persons performing the Services are negligent.

(3) The Customer will allow and/or procure sufficient access to and from the relevant site and procure sufficient unloading space, facilities, equipment and access to utilities for the Supplier's employees, sub-contractors and/or agents to allow them to carry out the Services. The Customer will ensure that the site where the Services are to be performed is, where necessary, cleared and prepared before the Services are due to commence.

(4) If any Services are delayed, postponed and/or are cancelled due to the Customer failing to comply with its obligations the Customer will be liable to pay the Supplier's additional standard charges from time to time for such delay, postponement and/or cancellation except where the Customer is acting as a consumer and the delay is due to a Force Majeure event. See below;

(i) The Customer will be liable if it cancels an attendance request (including but not limited to deliveries and repositions) at short notice. The rate of this charge is 75% of the full attendance charge with less than 24 Working Hours notice before the scheduled attendance time and 50% of the full charge with less than 48 Working Hours notice before the scheduled attendance time, unless otherwise agreed by both parties. This charge will be applied if the Customer fails to notify the Supplier with adequate time to find alternative work. This charge does not allow the Customer to have any hold on the vehicle booked. If the Supplier is able to obtain other work, the charge will still apply unless otherwise agreed by both parties.

(ii) If the Supplier attends an agreed address but the job is then cancelled, 100% of the attendance rate will be charged. If this attendance is a delivery and the vehicle sent by the Supplier is carrying equipment with the expectation to unload, but the Customer asks not to proceed, then the Supplier will take the load away at a rate of 75% of the delivery charge (in addition to the full delivery charge). An alternative address may be provided by the Customer and an agreed rate between both parties may be agreed. The re-delivery of a refused load will be charged at full rate unless otherwise agreed between both parties.

(5) It is the responsibility of the Customer to provide collection and/or delivery addresses that have legal and adequate parking facilities to the Supplier. The Customer is solely responsible for ensuring the access to these addresses and the loading/unloading area is suitable for the vehicle(s) that the Supplier has advised and quoted that they will provide.

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The Supplier will endeavour to park legally and as close as is practically possible to the collection/delivery addresses provided. Should the Supplier receive a penalty charge notice at the time of a contravention or by post, the Customer will be given the opportunity to appeal the notice. If the Customer chooses not to appeal, or an appeal fails, the Customer will be responsible for the charge any further costs incurred. The only time that a Customer will not be responsible for a notice is if they inform the Supplier prior to engagement that they are not responsible for such charges. The Supplier upon receiving this information will notify the Customer at the collection/delivery point if there is no suitable/legal place to carry out the carriage. It is then the decision of the Customer how it wishes to proceed. If the request is to deliver the load to an alternative address, then further charges may apply as agreed at the time by both parties.

(6) Unless otherwise noted by the Supplier within the job quotation, then any attendance (including deliveries) each allow for up to 2 hours on site per lorry load. Any additional time incurred on any occasion (at no fault of the Supplier) is to be charged at £60 plus vat per hour.

## **6 - DEFAULT**

(1) If the Customer;

(a) fails to make any payment to the Supplier when due without just cause;

(b) breaches the terms of the Contract and, where the breach is capable of remedy, has not remedied the breach within 14 days of receiving notice requiring the breach to be remedied;

(c) persistently breaches the terms of the Contract;

(d) provides incomplete, materially inaccurate or misleading facts and/or information in connection with the Contract;

(e) pledges, charges or creates any form of security over any Purchase Goods which haven't been paid for, or proposes to compound with its creditors, creates a trust deed for its creditors, applies for an interim moratorium in respect of claims and/or proceedings, any distress/diligence, execution or other legal process is levied on any property of the Customer, has a Bankruptcy Petition/Petition for Sequestration presented against it or the Customer takes or suffers any similar action in any jurisdiction;

(f) being a company, ceases or threatens to cease to carry on business, enters into voluntary or compulsory liquidation, has a receiver, administrator or administrative receiver, appointed over all or any of its assets, any attachment order/arrestment is made against the Customer, any distress/diligence, execution or other legal process is levied on any property of the Customer or the Customer takes or suffers any similar action in any jurisdiction;

(g) appears reasonably to the Supplier due to the Customer's credit rating to be financially inadequate to meet its obligations under the Contract; and/or

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(h) appears reasonably to the Supplier to be about to suffer any of the above events; the Supplier shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 9(2) below.

(2) If any of the events set out in clause 9(1) above occurs in relation to the Customer then;

(a) except where the Customer is acting as a consumer the Supplier may enter, without prior notice, any premises of the Customer (or premises of third parties with their consent) where Purchase Goods owned by the Supplier may be and repossess any Purchase Goods for which payment has not been made in full;

(b) the Supplier may withhold the performance of any Services and cease any Services in progress under this and/or any other Contract with the Customer;

(c) the Supplier may immediately cancel, terminate and/or suspend without Liability to the Customer the Contract and/or any other Contract with the Customer; and/or

(d) \*all monies owed by the Customer to the Supplier shall immediately become due and payable.

(3) Any repossession of the Purchase Goods shall not affect the Supplier's right to recover from the Customer any monies due under the Contract and/or any damages in respect of any breach which occurred prior to repossession of the Purchase Goods.

(4) Upon termination of the Contract the Customer shall immediately:

(a) return the Purchase Goods to the Supplier or make the Purchase Goods available for collection by the Supplier as requested by the Supplier; and

(b) pay to the Supplier all arrears for Charges for any Services, and/or any other sums payable under the Contract.

## **7 - LIMITATIONS OF LIABILITY**

(1) \*All warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy are excluded to the fullest extent permitted by law.

(2) \*If the Supplier is found to be liable in respect of any loss or damage to the Customer's property the extent of the Supplier's Liability will be limited to the retail cost of replacement of the damaged property.

(3) \*The Supplier shall have no Liability to the Customer if, without just cause, any monies due in respect of the Purchase Goods and/or the Services have not been paid in full by the due date for payment.

(4) The Customer shall give the Supplier a reasonable opportunity to remedy any matter for which the Supplier is liable before the Customer incurs any costs and/or expenses in remedying the matter itself. If the Customer does not do so the Supplier shall have no Liability to the Customer.

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(5) \*The Supplier shall have no Liability to the Customer to the extent that the Customer is covered by any policy of insurance arranged as a result of the Contract and the Customer shall ensure that the Customer's insurers waive any and all rights of subrogation they may have against the Supplier.

(6) The Supplier shall have no Liability to the Customer for any; (a) \*consequential losses (including loss of profits and/or damage to goodwill); (b) economic and/or other similar losses; (c) special damages and indirect losses; and/or (d) business interruption, loss of business, contracts and/or opportunity.

(7) Each of the limitations and/or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of: (a) Liability for breach of Contract; (b) \*Liability in tort/delict (including negligence); and (c) \*Liability for breach of statutory and/or common law duty; except clause 10(9) above which shall apply once only in respect of all the said types of Liability.

(8) Nothing in this Contract shall exclude or limit the Liability of the Supplier for death or personal injury due to the Supplier's negligence nor exclude or limit any other type of Liability which it is not permitted to exclude or limit as a matter of law.

## **8 - GENERAL**

(1) Upon termination of the Contract the provisions of clauses 3(2), 3(4), 3(5), 7(1), 7(2), 7(3) and Section 6 shall continue in full force and effect.

(2) Each sale of an item of Purchase Goods shall form a distinct Contract which shall be separate to any other Contract relating to other Purchase Goods.

(3) The Customer shall be liable for the acts and/or omissions of its employees, agents, servants and/or subcontractors as though they were its own acts and/or omissions under this Contract.

(4) \*The Customer agrees to indemnify and keep indemnified the Supplier against any and all losses, lost profits, damages, claims, costs (including legal costs on a full indemnity basis), actions and any other losses and/or liabilities suffered by the Supplier and arising from or due to any breach of Contract, any tortious/delictual act and/or omission and/or any breach of statutory duty by the Customer.

(5) \*No waiver by the Supplier of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision. If any provision is held by any competent authority to be unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect.

(6) The Supplier shall have no Liability to the Customer for any delay and/or non-performance of a Contract to the extent that such delay is due to any Force Majeure events. If the Supplier is affected by any such event, then time for performance shall be extended for a period equal to the period that such event or events delayed such performance.

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(7) All third-party rights are excluded and no third parties shall have any rights to enforce the Contract. This shall not apply to any finance company with whom the Supplier has an outstanding finance agreement relating to the Purchase Goods. Such finance company shall, subject to the Supplier's consent, have the right to enforce this Contract as if they were the Supplier. This Contract is governed by and interpreted in accordance with the law of the country where the Supplier is located and that country will have exclusive jurisdiction in relation to this Contract.

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