

Mussett Engineering Limited - Standard Terms and Conditions

These conditions shall apply to each contract ("the contract") for the sale of, or the carrying out of work on, the goods described in overleaf ("the goods") between Mussett Engineering Limited ("the Company") and the customer named on overleaf ("the purchaser"). These conditions shall apply to the entire exclusion of those of the purchaser and no variation of or addition to these conditions shall form part of the contract unless specifically accepted in writing by a duly authorised person on behalf of the Company.

1. Quotations

- a) Unless otherwise specified therein, any quotation submitted by the Company is valid for thirty (30) days and represents no obligation until the Company acknowledges the purchase order.
- b) All prices quoted by the Company are exclusive of Value Added Tax.

2. Specification

If the purchaser requests the Company to manufacture the goods to a specification or instructions of the purchaser:

- a) the purchaser must provide the specification or instructions in writing
- b) the suitability and accuracy of the specification or instructions will be the responsibility of the purchaser
- c) the purchaser warrants in favour of the Company that compliance with such specification or instructions will not infringe any patent, copyright, trademark or other intellectual property rights and the purchaser shall fully indemnify the Company against any action claim demand cost charges and expenses arising out of any such infringement.

3. Cancellation or variation of order

No orders placed by the purchaser, which the Company has accepted, may be cancelled or varied by the purchaser except with the written agreement of the Company. The purchaser will be liable for any loss (including loss of profits) costs, damages, charges and expenses suffered by the Company as a result of such cancellation and variation.

4. Packaging

The Company shall pack the goods in such manner as it considers appropriate but if the purchaser requires a special method of packing by written notice to the Company at the time of placing an order the Company shall pack the goods as the purchaser requires at the purchaser's cost.

5. Delivery

- a) Any delivery period quoted is an estimate only and commences from the Company's acknowledgement of the purchaser's order. Provided the Company takes all reasonable steps to deliver the goods at the time stated, the Company shall be under no liability for any delay or failure in delivery
- b) Goods or materials supplied by the Purchaser shall be at all times at the risk of the purchaser. In respect of all other goods, risk shall pass to the purchaser as soon as they leave the Company's premises except where delivery is made by the Company vehicle at the purchaser's premises in which case risk shall pass when the goods are delivered to the purchaser. The Company shall not be liable for any loss or damage of goods in transit unless caused by the negligence of the Company or its employees.
- c) On delivery, the purchaser shall carry out a visual examination of the goods and shall notify the Company within fourteen (14) days of any defect revealed by such examination. Without such notification, we will deem the goods satisfactory in respect of any defect that such examination should reveal. In the case of shortage or non-delivery of goods, the purchaser shall notify the Company within seven (7) days of delivery
- d) If the Company is unable to deliver, as a result of failure on the part of the purchaser to: accept delivery, give adequate instructions, failure to collect the goods, the Company shall arrange such storage as it deems appropriate and shall be entitled to charge the purchaser for storage at a rate comparable to commercial warehousing charges then prevailing. Storage shall be at the purchaser's risk.
- e) In the event that delivery is to be in installments, we will deem each separate delivery a separate contract.
- f) In the event that the purchaser wishes to change the required delivery schedule, this must be in writing, indicating the required revisions in the schedule and giving at least four (4) weeks notice to the Company. The Company will acknowledge this request indicating acceptance or otherwise and detailing a revised delivery schedule where appropriate. The purchaser will remain responsible for the acceptance of deliveries to this revised schedule.

6. Sub-contractors

Save where sub-contracting would contravene terms implicitly or explicitly agreed with the purchaser, the Company shall be entitled at its discretion to sub-contract the whole or any part of the Contract.

7. Payment

Payment for deliveries shall be due 30 days from date of invoice except where the Company stipulates C.W.O. or C.O.D. terms, or where alternative terms are agreed.

8. Force Majeure

The performance of all Contracts is subject to variation or cancellation by the Company in the event of any breakdown of plant or apparatus, fire, explosion, natural disasters, accident, industrial dispute, interruptions in the availability of labour, energy, transport, or material, government regulations or any other cause or event beyond the control of the Company. The Company shall have no liability in respect of failure or delay in delivery or in performance of any obligations under the contract due to any cause outside the Seller's control. These include but are not limited to: act of God, fire, floods, war, civil disturbances, riot, act of Government, currency restriction, industrial disputes, unavailability of materials or failure of supplier, carrier or sub-contractor to deliver on time.



Certificate No
FM 00919

Registered Office: Loddon Industrial Estate, Loddon, Norwich NR14 6JD

Company Registration Number: 2577629 VAT Registration Number: 304 9031 90

Mussett Engineering Ltd.

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Tel: 01508 522500 Fax: 01508 528769

Email: enquire@mussett.co.uk

www.mussett.co.uk

9. Warranty

Subject to the provisions of clause 5(c) hereof, if the purchaser considers that any goods delivered do not conform to their specification it shall notify the Company of such non-conformity within two months of receipt by the purchaser and at the same time return the relevant goods to the Company. The purchaser shall provide to the Company such evidence as the Company may require as to the date of receipt by the purchaser of the goods in question. If the Company is satisfied after inspection of the sample returned that the goods differ materially from their specification it shall subject to clause 10 hereof replace or rework the goods. The foregoing warranty is in substitution for and to the exclusion of any other warranty or condition as to compliance with description, merchantability, and fitness for a particular purpose or otherwise howsoever which would otherwise be implied in the Contract. Any claim will be invalid if notified to the Company beyond the two months referred to above. In no circumstances (other than as provided in clause 10) shall the Company be liable for any consequential loss (including loss of profits) suffered by the purchaser.

10. Limitation of Liability

- a) Items supplied by the purchaser for the contract shall be of suitable quality and shall be free of charge, in the quantities and at the times required by the Company. Any defect in such items shall not entitle the purchaser to: rescind the contract, reject the goods, make deductions from the contract price or claim damages in respect of such defect. Further, the purchaser shall indemnify and keep indemnified the Company from and against all actions, demands, claims, proceedings, losses or costs arising from the supply of defective items by the purchaser.
- b) In any case of work being carried out by the Company on goods or materials supplied by the purchaser ("free issue materials"), the Company's liability for damage to or destruction of the free issue material shall be limited to the invoiced value of the contract unless otherwise agreed in writing by a duly authorised agent of the Company.
- c) Save in the case of personal injury or death caused by our negligence, the Company shall not be liable in contract, tort, breach of statutory duty or otherwise for any loss, injury, destruction or damage suffered by the purchaser whatsoever or howsoever arising out of or in connection with the supply of goods or services by the Seller

11. Ownership

- a) Legal title to the goods shall remain with the Company until such time as the Company has received payment of the price of the goods and the price of any other goods or services previously or subsequently supplied by the Company to the purchaser whereupon such title shall pass to the purchaser. Insofar as the goods may be delivered to the purchaser prior to the time when title thereto passes to the purchaser as aforesaid the purchaser shall until such time hold the goods as the fiduciary agent and bailee of the Company and shall accordingly remain liable to account to the Seller for the goods.
- b) The Purchaser may exercise its right to sell the goods as the fiduciary agent to the Company in the usual course of the purchaser's business but such right:
 - (i) may be revoked at any time by the Company. Giving notice to that effect if the purchaser is in default for longer than seven days in the payment of any sum whatsoever due to the Company, or if the Seller has bona fide doubts as to the solvency of the purchaser and
 - (ii) will automatically cease if a receiver, manager or administrator is appointed over the assets, undertaking or property of the purchaser, or a winding-up or administration order against the purchaser is made or petitioned, or any petition order in bankruptcy against the purchaser is presented or made, or the purchaser goes into voluntary liquidation (otherwise than for the purposes of reconstruction or amalgamation while solvent) or calls a meeting or makes arrangements or compositions with creditors
 - (iii) and any warranties, conditions or representations given to or made in favour of third parties by the purchaser shall not be binding on the Company and the purchaser shall indemnify the Company with respect thereto
- c) Notwithstanding the retention by the Company of legal title to the goods:
 - (i) risk in the goods shall pass to the purchaser on delivery to the purchaser's delivery address and the purchaser shall arrange for the Seller's interest in the same to be noted on all relevant insurance policies and
 - (ii) the Company shall be entitled to maintain any action against the purchaser for the price of the goods or any part thereof.
- d) Upon determination of condition c) i, ii or iii above, the purchaser shall place the goods at the disposal of the Company. The Company or representatives thereof shall be entitled to enter any premises of the purchaser to remove the goods. Alternatively, as may be the case, pay to the Company the proceeds then held by the purchaser as trustee for the Company in accordance with Condition 11a)
- e) While any sums under any Contract between the Company and the purchaser are unpaid, goods supplied by the Company to the purchaser shall remain the property of the Company until the Company has received full payment. The purchaser shall hold the goods on behalf of the Company and shall store the goods in such a way that it is clear that they are the property of the Company. The Company may (without prejudice to any of its other rights) recover or recall all or some of the relevant goods from the purchaser's possession and the Company, its servants or agents are hereby irrevocably authorised to enter upon the purchaser's premises to recover or recall the relevant goods.

12. Provisions Relating to Certain Goods

The Company shall be entitled not to comply with the terms of any contract if it is of the opinion that to do so would be in breach of any applicable laws (either in the United Kingdom or elsewhere) relating to the production, storage or supply of goods.

13. Benefit of Contracts

The purchaser shall not be entitled to assign or otherwise transfer all or any of its rights and obligations under the Contract between it and the Company.



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14. Governing Law

These conditions and any Contract between the Company and the purchaser shall be subject to and constructed in accordance with English law. The purchaser agrees to submit to the non-exclusive jurisdiction of the English courts.

15. Data Protection Act 1998 (unincorporated Customers)

- a) The Company, or our banker/financiers, may make credit reference agency searches in respect of your business and its principals. Please note that credit reference agencies make a record of searches that prevent fraud or money laundering or by subscribers to make credit decisions about you.
- b) We may transfer information about you to our bankers, in order for them to provide their services to us and other customers of theirs and to help them (1) obtain credit insurance (2) undertake credit control (3) undertake assessment and analysis (including credit scoring, market, product and statistical analysis) (4) securities debts and (5) protect their interests.
- c) Our bankers may give information about you and your indebtedness to the following for the purpose stated
 - i) any other divisions or associated companies of theirs - for the business purposes of such divisions or companies
 - ii) our or their insurers - to quote for and issue any credit policy or to deal with any claims any advisers acting our or their behalf – so the advisers can carry out their services
 - iii) any business to which your indebtedness or our financing arrangements with them may be transferred – to facilitate such transfer
 - iv) to any person to whom they have a duty of disclosure or to whom the law permits disclosure
- d) i) Our bankers may make decisions about you solely using an automated decision making process, such as credit scoring, however, they will tell us (and in turn we will tell you) if they make a significant decision only using such a process. Through the Company, you can request a review of their decision using other means.
 - ii) Our bankers may monitor and record your phone calls to them for training and/or security purposes.
 - iii) We will provide you with details of our bankers on request, including a contact telephone number from where you can obtain details of the credit reference agencies used by them and any third party to whom information may be transferred.



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