

CONDITIONS OF SALE

The following Conditions will apply to all orders accepted by Street CraneXpress Limited (referred to in these conditions as "The Company") for the sale of goods

CONDITIONS

General

1. In this contract, where consistent with the subject or context, the following expressions shall have the meaning set out herewith:
Company: **Street CraneXpress Limited - Roman Ridge Road, Sheffield, S9 1GA, No: 07434115**
Purchaser: The person, firm or company purchasing machinery and services under this contract.
Machinery: The goods, service or any part hereof supplied under this contract.
2. No modification or variation to these Conditions shall be effective unless confirmed in writing by the Company. In the event of any conflict or inconsistency between these Conditions and the Purchaser's terms of conditions these Conditions shall prevail.
3. The Company's tender or quotation does not constitute an offer and will expire after 30 days or 60 days where the Purchaser's main place of business is overseas unless the Purchaser has placed an order within that time. The Company will not be bound by the order until written acceptance thereof has been given by The Company.
4. The Purchaser must provide the Company with all the information stipulated in the tender or quotation and any other information requested by the Company. If this information is not provided the Company may, as its option, cancel this contract or claim a suitable extension of the contract period, and charge the Purchaser any additional costs resulting from such extension.
5. In the event of cancellation by the purchaser or under Clause 4 hereof the Purchaser will be liable to the Company for any loss incurred by the Company, including loss of profit. The Company reserves the right to make a minimum invoice charge.

Guarantee

6. (a) The Company undertakes subject to sub Clauses (b) and (d) hereof at its discretion either to replace or repair without charge the Machinery or any part or parts thereof which shall be provided to the satisfaction of the Company to be defective by reason of faulty materials or workmanship supplied or performed by the Company provided such defect appears within 12 months from the date of commissioning or within 15 months of the date when the Purchaser was first advised that the Machinery was ready for despatch, whichever is the earlier. The Company shall not be liable for the cost, including labour, of removing a defective part or parts of the machinery or the cost of fitting new part or parts. Any defective parts replaced shall become the sole property of the Company.
 - (b) The Company's liability under Sub-Clause (a) hereof is conditional upon:
 - (1) written notice of the defect, with full details thereof, being received by the Company within 7 days of the discovery of the defect. Such notice may be given by telex or cable confirmed by letter of the same date.
 - (2) the defective Machinery or part or parts thereof being returned, securely packed, at the risk of the Purchaser and carriage paid by the Purchaser, to the Company or to such persons as the Company may direct.
 - (3) the defect not being due to carelessness, improper treatment or any wilful or negligent act or omission including lack of maintenance, inadequate lubrication, or any failure to comply with any instruction given by the Company or any use of the machinery with any part or parts which do not comply with the Company's specifications.
 - (4) the Machinery having been operated within the classification for which it was designed.
 - (c) Where the machinery is installed outside the UK, the Machinery or parts replaced under this guarantee will be delivered by the Company FOB UK port.
 - (d) In the case of parts not manufactured by the Company, the Purchaser shall only be entitled to the benefit, insofar as it may be passed on to the Purchaser, of any rights the Company may have against the supplier of such parts and the Company's liability in such cases as is limited to making the benefit of such rights available to the Purchaser.
 - (e) Save for the undertakings as to the title all other conditions or warranties expressed or implied, statutory or otherwise are hereby expressly excluded.
 - (f) If it should be held in relation to any particular contract that Sub-Clause (e) hereof is not fair and reasonable then any breach of any condition or warranty in relation to that contract shall not entitle the Purchaser to reject the Machinery, but shall entitle the Purchaser to damages only, and these damages shall be limited to the reasonable cost of remedying the defect or other matter constituting such breach (provided that the Company shall first be afforded the opportunity of carrying out the remedial work) and any liability for death or personal injury resulting from such breach.
7. All liability for consequential loss, whether arising from delay, in despatch, completion of erection, failure of the Machinery to meet specification or performance, defects in manufacture or otherwise is hereby expressly excluded.

Insurance

8. The Purchaser shall insure in the joint names of the Purchaser and the Company the whole and every part of the Machinery and the Company's equipment including hired plant from the date of arrival at site to completion or erection at full replacement value against all loss or damage from any cause whatsoever.
9. The Purchaser shall indemnify the Company against all losses, liabilities, claims, costs or expenses arising from damage or injury to persons or property, which may arise out of or in connection with the execution of the contract, provided that this indemnity shall not apply to liabilities arising from negligence of the Company or its servants or agents.
10. Delivery shall, unless otherwise stated, be made "ex-works".

11. a) Times for dates for delivery or performance (including erection) are estimates only. Time for delivery shall not be of the essence unless previously agreed by the Company in writing. The Company will use its best endeavours to deliver or perform by the time or date quoted, but will not be liable for any loss claimed to have arisen from any delay in delivery or performance.
- b) The Company may deliver the Machinery by separate installments. Each separate installment shall be invoiced and paid for in accordance with the provisions of these Conditions.
- c) The failure of the Purchaser to pay for one or more of the said installments of the Machinery on the due dates shall entitle the Company (at the sole option of the Company):
 - i) without notice to suspend further deliveries of the Machinery pending payment by the purchaser: and/or
 - ii) to treat this contract as repudiated by the purchaser.

Specification

12. a) Unless specially guaranteed in writing any description and specification, drawing particulars of dimensions and weights accompanying the tender or quotation or contained in any drawings, catalogues or other documents shall be deemed to be approximate and shall not form part of this Contract.
- b) The Machinery may, prior to despatch, be tried by the Company in the presence of a representative of the Purchaser. If the machinery fails to work in accordance with their specification, the Company shall remedy the defects within 10 days after the trial and the Machinery shall then be tried again, in the manner set out above.

Drawings

13. a) Any drawings or other technical data provided in connection with the contract shall remain in the custody of the Purchaser, who shall not divulge any details therefrom to any other person, firm or company without the approval of the Company. Such drawings or other technical data remain the property of the Company.
- b) The specification and design of the Machinery (including the copyright design right or other intellectual property in them) shall, as between the parties, be the property of the Company. When any designs or specifications have been supplied by the Purchaser for manufacture by or to the order of the Company then the Purchaser warrants that the use of those designs, or specifications for the manufacture, processing, assembly or supply of the Machinery, shall not infringe the rights of any third party.
14. The Company does not accept responsibility for civil works or foundations or for compliance with statutory regulations or local by-laws or for the fulfilment of any special requirements binding upon the Purchaser. When the Machinery is supplied for use in conjunction with equipment and/or structures which are not supplied by the Company, the Purchaser shall be solely responsible for ensuring that such equipment and/or structures are in all respects suitable and adequate for the purpose, and are properly installed. The Company shall not be liable for any adaptation of the Company's designs or manufactures made by someone other than the Company to suit the Purchaser's own circumstances.
15. Prices to be invoiced shall be those agreed in the contract, subject to escalation unless otherwise stated. Such escalation will be calculated in accordance with BEAMA (British Electrical and Allied Manufacturers Association) Contract Price Adjustment formula, modified as follows:
 - (a) **Labour**
The Price shall be adjusted at the rate of 35% of the Price per 1.0 per cent difference between the BEAMA Labour Cost Index for Electrical engineering last published before the date of tender and the average of the index figures published for the last (one or two) thirds of the delivery period, this difference being expressed as a percentage of the former index figure.
 - (b) **Materials**
The price shall be adjusted at the rate of 65% of the Price per 1.0 per cent difference between the Price Index Figure of Materials used in the Electrical Machinery Industry last published in the Trade and Industry Journal before the date of tender and the index figure last published before the end of the first three-fifths of the delivery period, this difference being expressed as a percentage of the former index figure.
16. (a) Where the Purchaser's main place of business is outside the UK, payment shall be made by means of a confirmed and irrevocable Letter of Credit drawn on an approved UK bank to permit payments in accordance with the tenders or quotation.
- (b) In the event that final shipment has not been made before the expiry date of the covering Letter of Credit, the Purchaser will obtain extensions to the validity of the said Letter of Credit in periods of three months.
17. (a) The contract price will be payable by the Purchaser in accordance with the contract terms notwithstanding any delay in despatch or performance under the contract. The Company may suspend performance of any contractual obligation to the Purchaser so long as any account of the Purchaser with the Company is overdue, and extra costs thereby incurred by the Company shall be reimbursed by the Purchaser.
- (b) Time for payment of the contract price shall be of the essence. We understand and will exercise our statutory right to interest and compensation costs under the Late Payment of Commercial Debts (Interest) Act 1998 if we are not paid according to agreed terms.
18. (a) In no case will the property in the Machinery pass to the Purchaser until payment has been made to the Company of all monies owed by the Purchaser to the company and until such payment the Purchaser will hold the Machinery as bailee for the Company.
- (b) The risk in the Machinery will pass in accordance with the definition of "Incoterms" 1953 depending on the delivery terms stipulated in the Contract.
19. In case of default in payment by the Purchaser after despatch of the Machinery and before the machinery has become the Purchaser's property or before the property in the Machinery has passed to the Purchaser, he commits an act of bankruptcy or, being a Company, goes into liquidation or a Receiver is appointed, the Company may give notice to the Purchaser terminating the contract or the Purchaser's right to possession, as the case may be, whereupon the Purchaser shall, if the Machinery has been despatched, be bound at the Purchaser's own expense to re-deliver the Machinery to the Company. In such cases the Company may (with or without previous notice) repossess the Machinery and the Company or the Company's duly authorised Agents are in such circumstances irrevocably authorised by the Purchaser to enter the premises in which the Machinery is located and to dismantle and remove the same at the Purchaser's expense.

20 (a) If any inspection or testing is required prior to despatch other than the Company's standard works inspections or test, or if inspection or testing is required in the presence of the Purchaser's representative, the Company will carry out such inspection or testing to provide the facilities for the same, but the requirement of such inspection or tests shall be notified at the time of placing the order and shall be paid for by the Purchaser as an addition to the quoted price.

(b) Where the Purchaser requires the equipment to be inspected or tested in the presence of his representative, the Company will notify the Purchaser that the Machinery is ready for inspection and testing and the Purchaser's representative shall attend for such inspection and testing within 7 days of the date of such notification otherwise the Company will carry out the inspection or testing and such inspection or testing shall be deemed to have been in the presence of the Purchaser's representative.

21 In the event of any delay in completion of the Machinery of any part thereof by reason of force majeure including but not limited to: strikes, lockouts, working to rule or trade dispute whether official or not relating to any of the employees of the company or the employees of any other person or company or firm which is a direct cause of the delay in the completion of work, instructions by Government, fire, flood, storm, tempest, or other acts of God, explosion or destruction of the premises of the Company not caused by the Company, war (whether declared or not), blockade, revolution, insurrection, riot, mobilisation, civil commotion, sabotage, power failure, lack of supplies of materials, non-delivery or late delivery by the Company's suppliers, epidemics, or for any other reason beyond the Company's reasonable control, the Company shall not be liable in any way for loss or damage howsoever arising. The Contract delivery date shall be extended by the number of days lost directly or indirectly by reason of such 'force majeure' event.

22 If despatch of the Machinery is delayed due to the failure of the Purchaser to provide the necessary instructions, requests for deferred delivery and where applicable procure the necessary import licence, the Company shall be entitled to arrange for storage of the Machinery either at the Company's own premises or elsewhere on the Purchaser's behalf and all charges for storage, transport, loading and unloading, insurance and demurrage will be payable by the Purchaser.

23. The Purchaser shall be responsible for procurement in good time of any necessary import licence and shall be responsible for any fees or charges that may be levied by the issuing authority. Such import licence must have sufficient validity to permit the manufacture of the Machinery, the obtaining of suitable shipping space and the negotiation of documents through the responsible Bank.

24 Installation and/or Commissioning Supervision

The charge for the services of the Company's Erection, Installation and Commissioning Engineers will be made on a daily rate basis or as detailed in the quotation or tender document. The quoted rates will be valid for the same period as the Machinery quotation or tender and thereafter will be subject to escalation in accordance with BEAMA revised CPA Clauses and Formula, for Contracts including erection. Where the Purchaser's main place of business is overseas the Company will estimate a total charge for the services of the Erection, Installation, Commissioning Engineers and the Purchaser will establish a covering Confirmed and Irrevocable Letter of Credit drawn on an approved UK Bank to permit payments against monthly invoices.

25 (a) The Purchaser shall be responsible for providing suitable access to and unhindered possession of the site, a clear working area providing a flat and level surface for lay-out purposes and a suitable local power supply adjacent to any point of work both for the operation of the equipment and for portable electric tools and also all necessary weights, slings and measuring instruments. The Purchaser shall also be responsible for ensuring that where a mobile crane is required for erection purposes, it will have free and clear access to site and will be able to operate and unload directly under the installation point.

(b) The Purchaser will be responsible for all building work including, but not limited to foundations, brickwork, cutting away and making good and other work in the Purchaser's structures.

(c) Unless otherwise stated, the price quoted for installation is based on the understanding that any work will be carried out continuously and during the Company's normal working hours. Any extra cost incurred by the Company due to suspension of work by Purchaser's instructions or lack of instructions, interruptions, delays, overtime or any other cause, for which the Company is not responsible, shall be added to the contract price.

(d) The Company shall be entitled to employ members of any of the signatory Trade Unions to the Mechanical Construction Engineering Agreement on any site work.

(e) When installation has been completed, the Purchaser will be notified accordingly and will be asked to provide a witness to attend the commissioning of the equipment and to sign the handing-over Standard Acceptance Certificate. In the event that the Purchaser does not provide such a witness the equipment will nevertheless be commissioned and if found satisfactory by the company will be deemed to have been handed over and a certificate to that effect will be issued and will be deemed to have been signed by the Purchaser. Installation is deemed to be complete if the equipment is fit for commercial use notwithstanding minor omissions or defects which do not materially affect such use.

25 (f) If the Company is responsible for only supervision of the installation, the Purchaser shall supply suitable labour and tackle to carry out installation of the equipment under the supervision of the Company's foreman.

(g) Any building in which the equipment to be installed shall be sufficiently completed to give protection from the elements to both machinery and personnel from the time of arrival on site.

(h) Where the Purchaser requires special safety precautions when contractors are working on site, i.e. provision of temporary traffic control system, flagmen, warning lamps etc. such requirements shall be provided free of charge by the Purchaser.

(i) If installation is prevented, delayed, impeded or otherwise rendered more expensive by any act or omission of the Purchaser including failure to advise the Company of special local conditions the Purchaser shall pay such extra charge as the Company shall reasonably require. Any alteration by the Purchaser in design, quantities or specification may also involve adjustment to the price. Such work shall be carried out but only against written instructions given to the Company by the Purchaser and agreed by the Company.

(j) Where the Company provides any labour on the Purchaser's site the Purchaser shall indemnify the Company against the consequences of any defect or unsuitability of any tackle or apparatus provided by the Purchaser and against all liabilities for damages, costs and expenses arising out of the death of personal injury to any person or damage to any property howsoever caused provided that this indemnity shall not apply to liabilities arising from the negligence of the Company or its servants or agents.

Overseas Installation

26. (a) **Income Tax**
Local Income Tax, if payable, will be paid by the Purchaser, together with any other local Taxes.

(b) Travelling Expenses

The Purchaser will pay travelling expenses for the Installation Engineers from place of residence to the place of installation, and also the return travelling expense at the end of the mission. These expenses comprise the cost of economy class air tickets and first class rail tickets, together with a quoted amount of out of pocket expenses per journey to cover other incidental expenses.

(c) Accommodation

The Purchaser will provide the Installation Engineers with hotel accommodation of European standard at no charge with facilities comprising full board and lodging with at least one single room with bath or shower for each man. If the Installation Engineers are required to be away from the United Kingdom for a period exceeding twelve months, the Purchaser will provide married accommodation of a high standard free of charge, at the request of the Company.

(d) Transport

The Purchaser will provide, free of charge, including all running expenses, a motor car for use by the Installation Engineers for transport to and from place of work and to and from the nearest recreation centre.

(e) Medical Expenses

The Purchaser will provide free medical attention for the Installation Engineers in the event of accident or sickness, including dental attention, medicines and hospital treatment and shall on demand produce to the Company evidence of such medical and other insurance cover as is reasonably required to provide such attention.

(f) Leave

The Installation Engineers are entitled to any statutory National Holidays observed by the Country in which the work is being carried out. If work is continued on any such days, payment will be due at the appropriate overtime rates. Should the Installation Engineers be away from the UK for six months or more, they will be entitled to two days home leave for each month away. The Purchaser will pay travelling expenses incurred in such leave, as stated in Sub Clause (B) hereof. -

(g) Works Permits

If required are to be provided by the Purchaser.

(h) Progress Sheets

The Company will provide its employees with Outwork Progress and Time sheets to be submitted to the Purchaser's representative on a weekly basis. The Purchaser's representative shall check and sign these work progress sheets and all work progress sheets signed as correct by or on behalf of the Purchaser shall be conclusive of the correctness of their contents. Should any dispute arise as to the correctness of any work progress sheet prior to signing by the Purchaser's Representative the matter is to be referred to the Company's Senior Supervisor and the Purchaser's Chief Engineer responsible for the work and if the dispute is not resolved within 7 days the Company must be informed by the Purchaser by telex or cable addressed to the Company's registered office in the United Kingdom. Failure of the Purchaser's representative to sign a work progress sheet on a point not affecting the safe operation of the Machinery shall not constitute sufficient reason for withholding release of completion certificates or delaying payments properly due to the Company.

27. Any provision of these Conditions which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of these conditions.

28. The validity construction and performance of this Contract shall be construed in accordance with the laws of England and Wales and the parties submit to the non-exclusive jurisdiction of the Courts in England and Wales. The language of the Contract shall be English unless otherwise agreed in writing by the Company.