

AMBER PANELS AND ENCLOSURES LIMITED

Sidings Road, Lowmoor Business Park, Kirkby-In-Ashfield, Nottingham NG17 7JZ
Registered Office: 20-22 Wenlock Road London N1 7GU Company number 10262297

GENERAL SALES TERMS AND CONDITIONS (1st AUGUST 2016)

INCORPORATION

These General Sales Terms and Conditions shall apply to all quotations, offers, orders and contracts for the supply of goods and services by Amber Panels and Enclosures Limited. All Customer terms and conditions are hereby excluded.

DEFINITIONS

In these Conditions, and the Contract which incorporates them, the following words have the following meanings:
Additional Charge: Anything specified as an Additional Charge or stated in the Contract Documents to be additionally chargeable.
Conditions: These General Sales Terms and Conditions.
Contract: The contract which incorporates these Conditions.
Contract Documents: All written documents forming part of the Contract.
Customer, you or your: The person, firm or company buying the Goods and Services.
Customer Materials: means any metal goods to be free-issued to us by you to be subject to Fabrication.
Customer Premises: Your premises specified in the Contract Documents where any Goods and Services are to be supplied.
Deliver and Delivery: Carriage of the Goods to the Customer Premises, or making the Goods available for collection by you.
Fabricate and Fabrication: includes laser cutting, punching, bending, folding welding, fabrication and other actions in relation to metals;
Goods: Any goods to be Fabricated in accordance with the Specifications and supplied under the Contract, as stated in the Contract Documents, including Customer Materials as Fabricated as part of the Services.
Price: The price for the Goods and Service specified in the Contract, and in the event of doubt, the price shall be as stated in our quotation or acknowledgment of order.
Services: means any Fabrication to be carried out to Customer Materials in accordance with the Specifications, and any other services, such as design capture or tolerance checking services, we agree to provide;
Specifications: The specifications, designs and requirements for Goods and Services provided by you and agreed by us as part of the Contract Documents.
Amber, we, us and our: Amber Panels and Enclosures Limited.
Warranty: The warranties in the section headed "Warranty Terms".
Warranty Period: The period for the Warranty set out in the Condition entitled "Warranty Period" or as otherwise specified in the Contract Documents.

SUPPLY

We agree to supply and Deliver to you and you agree to purchase and take Delivery of the Goods and Services on and subject to these Conditions.

SPECIFICATIONS

Conformity	We will supply the Goods and Services in conformity with the Specifications.
Data Format	You must ensure that any Specifications are in the DWG, GEO or DXF format or such suitable CAD format as we may specify so as to be compatible with our equipment.
Design Capture Service	If we agree to provide a design capture service, we will use reasonable efforts to capture your Specifications from your paper drawings or other design records and to convert those Specifications into a CAD format we use. We may ask you to approve all Specifications and CAD files we produce as part of this service. We may make a reasonable Additional Charge for this service.
Errors	You are responsible for checking that the Specifications are accurate, fit for your purposes, and are free from errors and omissions. We will not check the Specifications for errors, and we shall have no responsibility for any errors or omissions in the Specifications. You acknowledge that it is ambiguous whether a particular feature is deliberate or an error. You shall pay for the Goods and Services notwithstanding any errors and omissions in your Specifications, and you shall pay for any wasted time, expenses, labour, and materials resulting from errors and omissions in your Specifications.
Tolerances	We are reliant on our machinery and we will provide the Goods and Services within our standard range of tolerances unless otherwise agreed.
Tolerance Checking	Without prejudice to the "Errors" section above, our software will perform a standard analysis of the CAD files to check for tolerance errors. We may make a reasonable Additional Charge for this service and for correcting any errors, but we will discuss this with you first.
Changes	We may make an Additional Charge for all changes to the Specifications which you wish to make.
Customer Materials	You must ensure that all Customer Materials comply with the agreed Specifications. If any Customer Materials are rejected by our machinists/machines as being unsuitable, you must supply suitable replacements. We will not be liable for any delays caused, and any additional costs incurred by us as a result of such unsuitability may be passed onto you as an Additional Charge. We will not be liable for imperfections due to the nature or condition of the Customer Materials. You will need to provide sufficient quantities of Customer Materials to cover spoilage and you acknowledge that spoilage may occur. You will need to provide samples of the Customer Materials so that we are able to check that the Customer Materials comply with the agreed Specifications. You are responsible for delivering and unloading the Customer Materials at our the premises by the agreed date in the Contract Documents.

PRICE AND ADDITIONAL CHARGES

Payment Obligation	In consideration of the supply of the Goods and Services you agree to pay the Price, and all Additional Charges which arise, together with any VAT, in accordance with the terms of the Contract.
Exclusions	The Price is ex-works (as defined in Incoterms 2000). The Price excludes, and we may make an Additional Charge for, the Delivery of the Goods at any premises other than our premises.
Additional Charges and Time and Materials	For any Price or Additional Charge which is not specified or for which a fixed quote is not given, it shall be a reasonable price or charge specified by us, including labour at our standard rates, materials at our list price or at cost plus our standard mark-up, travel, accommodation and subsistence costs at our standard rates, and all other costs and expenses properly incurred in providing the Goods and Services at cost plus our standard mark-up.
VAT	All Prices and Additional Charges are exclusive of value added tax and any other applicable sales taxes, which we may charge in addition, and shall be payable at the same time.

PAYMENT TERMS

Except to the extent alternative payment terms are stated in the Contract Documents, the following terms shall apply:-	
Invoicing	We may invoice you for the Price for the Goods on or after the sooner of when we have notified you that the Goods are ready for Delivery or when we have dispatched the Goods. We may invoice you for the Price for Services on completion of the Services. We may invoice you for any Additional Charge in advance of, or, at our discretion, after, the occurrence or completion of the incident, services, work, cost or expense to which the Additional Charge relates.
Payment	You shall pay our invoices within 30 days of the date of invoice.
Other Terms	All payments shall be made in pounds sterling, by cheque or by bank transfer to such account as we may specify, in full, without set-off, deduction, counter-claim, or withholding. The Late Payment of Commercial Debts (Interest) Act 1998 shall apply to payments due under the Contract.

PERFORMANCE

Timescales	We will use reasonable endeavours to perform the Contract and supply the Goods and Services in accordance with any dates or times stated in the Contract Documents or otherwise within a reasonable time. All stated dates and times are estimates only and time is not of the essence. We shall not be in breach of the Contract unless and until you give us notice after the time we should have performed the Contract and we fail to perform within a further 7 days of your notice.
Delivery	Unless otherwise stated, we will Deliver the Goods to the Customer Premises. If you are to collect the Goods, then you must collect them within 5 days of when we inform you that they are ready.
Loading and Unloading	If you are collecting the Goods from us, then we will be responsible for loading them. If we are to Deliver the Goods to the Customer Premises, then you are responsible for unloading them.
Receipt	You must sign any note requested by us to acknowledge receipt of the Goods.
Passing of Risk	All Goods shall be at your risk from Delivery. If you collect the Goods from our premises, you bear the risk from the point of collection.
Packaging	All pallets and boxes in or on which the Goods are supplied remain our property. We may leave delivery pallets and boxes with you for collection by us at the next delivery, for re-use on future deliveries. You agree to store our delivery pallets and boxes safely.

TITLE AND INTELLECTUAL PROPERTY

Retention of Title	Title to Customer Materials shall remain with you. Title to the Goods (except for Customer Materials, and pallets and boxes) shall pass to you when you have paid in full all amounts payable by you under the Contract, and until that time title (including legal and beneficial ownership) is retained by us. In any event, we shall at all times be entitled to bring an action for the Price.
Your IPR	We acknowledge that all copyrights, design rights and other intellectual property rights in the Specifications you supply are your property. We will keep your Specifications confidential. You licence us to edit, adapt, translate and copy all Specifications to make the Goods and provide the Services. You warrant that our making the Goods and supplying the Services to your Specifications will not infringe any rights of a third party.

WARRANTY TERMS

Warranty	We warrant that on Delivery the Goods will conform to the requirements of this Agreement, will be free from material damage, and will be free from material defects in materials (unless made with Customer Materials), manufacture or workmanship. We warrant that Services will be provided with reasonable care and skill.
Warranty Period	In any event, we will not be liable for any claims relating to breach of Warranty which are made by you, in the case of Goods, later than 1 week after Delivery of the Goods, or in the case of Services later than 1 week after completion of the Services. You will be considered to have accepted the Goods as being fully in conformity with the Contract if you use or resell them.
Making Claims	When making a claim under a Warranty, you must give full particulars of your claim, and in the case of Goods, at our option, return them to us or permit us to inspect them.
Application of Warranty Period	We shall cease to have any liability whatsoever for the Goods or Services after the end of the applicable Warranty Period and shall not be liable for any claim under a Warranty which is notified after the end of the Warranty Period.
Remedy	We will remedy any breach of Warranty (at our option) by rectification, replacement, or refund all or part of any Price and Additional Charges for the affected Goods, and re-perform or refund the Price or any Additional Charge paid for any affected Services. This is your sole remedy for breach of Warranty, and we shall not have any other liability if we provide this remedy. You shall give us a reasonable opportunity to provide this remedy.
Exclusion of Implied Terms	All warranties, terms or conditions implied by statute, common law, custom or otherwise as to the condition or quality of the Goods and Services, or fitness for purpose of the Goods or Service, or correspondence of the Goods or Services with any sample or description, are hereby excluded.

EXCLUSION AND LIMITATION OF LIABILITY

Liability Excluded and Limited	In the Contract, references to our being "liable" or to our "liability" shall be to: our liability to you under or for breach of the Contract or any Warranty; our liability to you for or in respect of tort, negligence, breach of statutory duty, liability imposed by statute, accidental or negligent misrepresentation; and any other liability we may have to you whatsoever arising under or out of, in connection with, or in the course of performing, the Contract.
Liability Not Limited	We do not limit or exclude our liability to you for death or personal injury resulting from our negligence, or for fraud or fraudulent misrepresentation, or for infringement of your intellectual property rights in the Specifications, or for breach of confidentiality. We do not limit or exclude liability to provide a refund of the Price or any Additional Charges.
Excluded Types of Loss	Subject to the Condition headed "Liability Not Limited", we shall not be liable to you for (1) any special, indirect or consequential loss, (2) any loss of profit, use, bargain, expectation, anticipated savings, production, business, revenue, use, contract or goodwill, (3) any costs or expenses, liability, commitment, contract or expenditure incurred or wasted by you in reliance on the Goods and Services being provided in accordance with the Contract, (4) wastage, spoilage, loss and damage caused to any other goods in which the Goods are to be incorporated and (5) losses suffered by third parties and your liability to third parties.
Public Liability	Subject to the Condition headed "Excluded Types of Loss", our liability for the cost of repairing or replacing, and/or for the diminution in value of, any property lost, damaged or destroyed by us or our representatives whilst on any Customer Premises due to our negligent acts or omissions shall be limited to £500,000 per incident, or if there is more than one incident arising out of the same cause, for all such incidents in the aggregate.
Product Liability	Subject to the Condition headed "Excluded Types of Loss", our liability for the cost of repairing or replacing, and/or for the diminution in value of, any property lost, damaged or destroyed, where caused by any defect in any Goods or Services, shall be limited to £500,000 million in aggregate for all incidents occurring in any calendar year.
Customer Materials	Our liability for the cost of repairing or replacing, and/or for the diminution in value of, any Customer Materials shall be limited to the current market value of such Customer Materials.
General Limitation	With the exception of liability covered by the Conditions entitled "Liability Not Limited", "Public Liability", "Product Liability", and "Customer Materials", our total liability for all events giving rise to liability to you in aggregate shall be limited to the Price payable under the Contract.

FORCE MAJEURE

We shall not be liable to you for non-performance or late performance of the Contract due to any matter beyond our reasonable control, including (without limitation) Act of God, war, threat of war, terrorism, riot, civil commotion, public demonstration, blockade, or sabotage, the act of any government, government authority or legislature, industrial action (including our own employees), lightning, fire, explosion, storm, flood, earthquake, accumulation of snow or ice, or drought, shortages (including of fuel, utilities, and raw materials), vandalism, theft and other criminal action, interruption or failure of utilities, or anything of a similar nature affecting our carriers, sub-contractors or suppliers. If any event listed above leaves us still being able to perform some, but not all of our contracts with you, and with third parties, then we may decide in our sole discretion which contracts to perform and when without liability.

TERMINATION

We may suspend or terminate the Contract if the Price or any Additional Charges payable by you become overdue and you fail to pay within 14 days of notice from us demanding payment. A party terminate the Contract immediately if (1) the other is in breach of the Contract, which is either incapable of remedy, or if capable of remedy is not remedied within 30 days of notice of the breach, or (2) if the other (or a partner of it if a partnership), is liquidated, dissolved, wound-up, enters administration, has a receiver or administrative receiver appointed, is subject to an interim order, commits an act of bankruptcy, or makes an arrangement or otherwise compounds or compromises with its creditors, or if any legal step is taken to achieve any of the same.

GENERAL

Entire agreement: These Conditions and the other Contract Documents constitute the entire agreement between you and us. **Assignment:** You must not assign or transfer the Contract without our prior written consent, which will not be unreasonably withheld. **Sub-Contracting:** We may sub-contract our obligations under the Contract. **Third Party Rights:** The Contract shall not confer any benefit on any third party or be enforceable by any third party. **Invalid Terms:** Each of the terms of the Contract is separate and severable. If any term is held to be void or invalid the remaining terms shall continue in full force. **Waiver:** No failure, delay or forbearance by us in enforcing any term or exercising any right or remedy shall constitute a waiver of such term, right or remedy. **Recovery Costs:** You shall pay to us all our reasonable and proper costs and expenses (including legal costs) incurred by us to enforce payment of any debt under the Contract, and to recover any Goods to which we retain title. **Interpretation:** In the Contract a reference to a "person" includes a reference to a company or other body corporate, association, partnership or individual; a reference to the singular shall include the plural and vice versa. **Law:** The Contract shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.