



## TERMS AND CONDITIONS

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#### 1. DEFINITION

In these conditions the seller shall mean RainCatcher Products and Services LTD and/or subsidiary or associated companies and the Customer shall mean the other party to this contract, referred to hereafter as the Customer.

The Goods shall mean the products supplied by the Seller and the Contract price shall mean the price of the Goods invoiced by the Seller in accordance with condition Number 3 of these conditions.

#### 2. APPLICATION

2.1 All Goods supplied by the Seller are supplied subject to these conditions unless they are varied by an agreement in writing between the authorised representatives of the Seller and the Customer.

2.2 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of any such representations which are not so confirmed.

2.3 Where the Seller does not manufacture the Goods the seller is, unable to advise the Customer on the fitness of the Goods for any particular purpose, unless the Seller gives written advice or a written recommendation, the Customer is entirely responsible for satisfying itself that the Goods are fit for the intended use either by relying on their own expertise or by obtaining professional advice.

2.4 Any advice or recommendation given by the Seller or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Seller is follow or acted upon entirely at the Customers own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 A quotation of the Company is open for a period of 30 days after the date of the quotation. No quotation shall constitute an offer or tender but shall be deemed to be an invitation to treat

#### 3. PRICES

3.1 The price payable for the Goods shall be the Contract Price plus any adjustment necessary to take account of any increase in costs incurred by the Seller prior to the date of despatch. Delivery

charges and other expenses incurred by the company may be added to the invoice, together with addition to VAT.

3.2 Split deliveries as to time or destination are liable to surcharge.

3.3 Value Added Tax will be charged at the rate ruling at the date of supply.

#### 4. DELIVERY

4.1 The Seller shall deliver the goods to the Customer premises or the Customer shall collect the Goods from the Sellers premises, whichever is applicable, on or by the date or dates agreed. By agreement between the parties the Seller may deliver the Goods and/or perform the Services or the Customer may collect the Goods at an earlier time.

4.2 Where the Seller is to deliver Goods delivery will be to as near to the place in mainland Britain where the Purchaser requires delivery to be made as, in the discretion of the Seller, a safe, hard road permits.

4.3 The Customer shall be solely responsible for the unloading of the Goods if the Seller has delivered the Goods or for the loading of the Goods if the Customer is collecting the Goods and the

Seller shall not be liable for any damage that occurs in the course of such loading or unloading.

4.4 In event that such loading or unloading exceeds a period of 1 hour then demurrage may be charged.

4.5 If the Customer fails to collect the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason or any cause beyond the Customer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may make provision for the storage of the Goods until actual recovery, and the Customer shall be responsible and shall indemnify the Seller for the reasonable costs, including insurance, of such storage.

4.6 Any date of delivery or period for delivery given is an estimate only and the Company will not be liable for any delay of delivery of the Goods

4.7 If the Customer requires proof of delivery or collection any such request for proof shall be notified in writing within 30 days of the date of the Seller's invoice.

#### 5. TITLE AND RISK

5.1 Risk in the Goods shall pass to the Customer on delivery.

5.2 Notwithstanding delivery and the passing of risk in the Goods, the Goods shall remain the sole and absolute property of the Seller until such a time as the Customer shall have paid to the

Seller's in cash or cleared funds the purchase price of the Goods, together with the full price of any other Goods the subject of any other contract between the Seller and the Customer.

5.3 The Customer acknowledges that until such a time as the Customer becomes the owner of the Goods, the Customer is in possession of the Goods solely as fiduciary agent and bailee for the

Seller and the Customer will store, protect and insure the Goods on its premises separately from its own Goods or those of any other person and in a manner which makes them readily identifiable

as the Goods of the Seller.

5.4 Subject to the terms hereof, the Customer is licensed to re-sell or use the Goods in the ordinary course of its business PROVIDED THAT any sale of the Goods shall take place as bailee for the

Seller and that the entire proceeds of sale are held in trust for the Seller and are not mingled with other monies or paid into any overdrawn bank account.

5.5 The Buyer's right to possession of the Goods shall cease if the provisions of Condition 9 shall apply to the Customer.

5.6 If payment for the Goods is overdue in whole or in part the Seller may, without prejudice to any other rights or remedies, recover and/or sell the Goods or part thereof and shall be entitled to enter upon the Customer's premises or site for that purpose.

#### 6. RETURNS

6.1 Goods returned at the Customers request not on the Company's own vehicle shall be at the customers risk regarding insurance for a value not less than the full invoice price.

6.2 Specifically ordered, manufactured or non-stock items are not returnable and items bought and subsequently not required will be subject to a restocking charge up to 25%

6.3 Costs of collection and re-delivery of replacement items will be met by the Customer unless attributable to the negligence of the Seller.

6.4 Only Goods returned in saleable condition and original packaging will be accepted for credit.

6.5 The Seller reserves the right to levy a restocking and handling charge.

6.6 All returns must be sanctioned by the Seller prior to goods being brought back.

#### 7. CLAIMS

7.1 Any claims in respect of alleged shortages or damage must be notified to the Seller in writing with three days of delivery. Evident damage to external packing must be the subject for an endorsement on the Sellers delivery note at the time of delivery.



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### 8. PAYMENT

- 8.1 Unless otherwise agreed, payment shall be due 30 days from date of invoice. Failure to observe these terms may result in cancellation of credit facilities.
- 8.2 In the event of non-payment within the time stipulated, a charge of 2% per month of the invoice price will be due from the Customer from the date when payment was due until the date of actual payment. (Whether before or after judgement)
- 8.3 The Seller shall be under no obligation to make any delivery if the Customer is in breach of any of these Conditions of Trading.
- 8.4 The Seller shall at any time be entitled to deduct from or set off against monies payable by it to the Customer such sums which the Customer owes the Seller.
- 8.5 The Customer may only deduct from or set off against monies payable by it to the Seller such sums which the Seller owes the Customer if the Seller has agreed in writing to such deduction or set off and the amount thereof.
- 8.6 The Seller shall be entitled to invoice the Customer for the price of the Goods on or at any time after acceptance of the order or the date for delivery of the Goods or the date for collection of the Goods.
- 8.7 The Customer shall pay the price of the Goods within the terms of the Seller's invoice notwithstanding that delivery or collection of the Goods may not have taken place or that property in any Goods had not passed to the customer.
- 8.8 The seller will at its discretion assign each customer a credit limit. In the event the aggregate value outstanding from the customer exceeds this limit the seller reserves the right to terminate the service forthwith.
- 8.9 Non-payment on a due date will entitle the company to demand payment of all outstanding balances under the Contract or any other Contract between the Seller and the Customer whether due or not and/or cancel any outstanding orders without prejudice to any other rights it may have.

### 9. DEFAULT OR INSOLVENCY OF CUSTOMER

#### 9.1 This condition applies if:

- 9.1.1 The Customer is in breach of any of its obligations under these Conditions: or
- 9.1.2 The Customer has a receiving order in bankruptcy made against him or makes any arrangement with his creditors or, being a Company, has a receiver, liquidator, administrator, supervisor or administrative receiver appointed over its property or assets or any part of them or if any order shall be made or any resolution passed for winding up the Customer, or
- 9.1.3 The Customer ceases, or threatens to cease, to carry on business, or

#### AUTHORISATION NOTES:

- 9.1.4 The Seller reasonably considers that any of the events mentioned above will occur.
- 9.2 If this condition applies then the Seller may without prejudice to its other rights or remedies, demand immediate payment by the Customer of all unpaid accounts and suspend further deliveries and cancel this and any other contract between the Seller and the Customer without any liability attaching to the Seller in respect of such suspension or cancellation and debit the Customer with any loss sustained thereby.

### 10. GUARANTEE

- 10.1 The Seller undertakes (as its option) to repair or replace free of charge any Goods which are shown to be defective in materials or workmanship within 12 months of delivery.
- 10.2 The Seller shall be under no liability under Condition 10.1 if:
- 10.2.1 The Customer has not paid in full for the Goods; or
- 10.2.2 The Customer has executed or attempted to execute repairs or alterations to the Goods which are not authorised by the Seller; or
- 10.2.3 The Seller has not been notified of any defect in the Goods within one month of the defect becoming apparent.

### 11. EXCLUSION OF LIABILITY

- 11.1 The Seller's guarantee is provided by the Seller and accepted by the Customer in substitution for all express or implied representations, conditions and warranties (statutory or otherwise) as to the state, quality, fitness for purpose or performance of the Goods.
- 11.2 Except for any liability which it may incur for death, or personal injury resulting from the Seller's negligence, the Seller shall not be liable in any way whatsoever whether in contract, in tort, in misrepresentation or otherwise for any consequential or other loss, damage or injury, however caused which may arise out of or in connection with the supply of the Goods.
- 11.3 The Seller's liability under these conditions shall be limited to the Contract Price.
- 11.4 In no circumstances shall the Seller have any liability whatsoever for any advice or design provided to the Customer, unless the same is in writing on the Seller's headed paper following receipt of a suitable written specification from the Customer. The Customer shall be responsible for checking and confirming that details of materials estimated by the Seller are correct and no responsibility shall be taken by the Seller for errors in quantities provided by it. Manufacturer's specifications and product details will be supplied at the request of the Customer, but the Seller will accept no liability for errors or mis-statements contained therein. In no circumstances does the Seller undertake any liability for checking or approving the specification for the Goods provided by the Customer.

### 12. RESERVATIONS

- 12.1 The Seller reserves the right to vary deliveries and to make deliveries by instalments as it may deem necessary having regard to availability of supplies and changes in manufacturer's specification.
- 12.2 Each delivery of Goods to the Customer shall constitute a separate contract to which these conditions shall be applied.

### 13. LEGAL

- 13.1 The Customer agrees that no oral representations have induced him to enter into the contract or form any part thereof. Furthermore, the conditions of the Customer's purchase order shall not form part of the Contract unless expressly agreed by the Seller in writing.
- 13.2 This Contract shall be governed by the Law of England and Wales and the Customer hereby agrees to submit to the jurisdiction of the Courts in England and Wales to which all disputes hereunder shall be referred.
- 13.3 The Seller shall not be in breach of contract if the performance of the contract is delayed or otherwise affected by circumstances beyond reasonable control of the Seller. In particular, no liability shall rest with the Seller in respect of any late deliveries or failure to deliver arising from shortage of supplies or transportation delays beyond its control.

### 14. INVOICING BY EMAIL

The Seller has the right to invoice the customer by email where the customer has consented to invoices being submitted in this matter. Where invoices are sent out using electronic mail they will be deemed to have been received by the customer on the date when they are sent provided that the electronic mail is transmitted between hours of 9:00am and 5:00pm on a day between Monday and Friday not being a Bank Holiday (A Business Day). If the mail is sent to the Customer outside these times then the Customer will be deemed to have received the invoice on the next Business Day following.





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**Additional Terms and Conditions of Service**

- 1) Where applicable, a written Order Number or letter of acceptance must be obtained before work commences.
- 2) Any variation identified should be priced / agreed / and instructed before being carried out. Alternatively a written confirmation of verbal instruction will be undertaken and priced at day work rates with additional costs for materials / plant & equipment necessary to safely undertake each requested task to your satisfaction.
- 3) Tender costs priced from tender drawings will only remain valid if no changes occur from these drawings to the working drawings, any differences will be subject to an amended price.
- 4) Any ASBESTOS encountered will be dealt with by specialists at no cost to the seller.
- 5) All contaminated soil encountered will be dealt with as necessary to appropriate regulations at no cost to the seller.
- 6) The supplier will provide all machinery in good working order with appropriate valid test certificates.
- 7) Operatives of the supplier are to be aware of Health & Safety issues and general site requirements. Any gross misconduct of Health & Safety issues will result in appropriate disciplinary action.
- 8) Main contractors will generally be expected to provide welfare facilities on site unless otherwise agreed. Main Contractor to also provide all signage for general site safety.
- 9) A plan of underground cables / ducts / water pipes etc must be provided if available; the seller cannot accept responsibility for any incorrect or ambiguous information provided. If no plans are available then the seller cannot be held responsible for accidental damage. Ground mapping can be provided at a cost to the main contractor.
- 10) When insufficient drawings or specification details arise, appropriate materials will be used suitable for the required task.
- 11) The seller will secure areas of work utilising the main contractors fencing to specific areas of work for Health & Safety reasons, this protection will remain till works are completed and it is the main contractor's responsibility to provide sufficient fencing to protect uncompleted works.
- 12) Once materials are properly fixed they become the responsibility of the main contractor. The title of goods transfers on payment.
- 13) Programming of works to be agreed at order stage and main contractor to be advised of any known long lead-in periods of materials.
- 14) Groundwork items generally to be inspected prior to leaving site and left in good order by the supplier. Any damage or disturbance caused by others will not be the responsibility of supplier.
- 15) The seller will provide a progress report regards programme of work and will discuss any further information at regular meetings if requested.
- 16) Where possible main contractor to programme trades to avoid compromising Health and Safety issues on site.
- 17) Waiting time will be charged to main contractor, when contracted works are delayed by means out of the sellers control.
- 18) Full value of any materials on site will be agreed and submitted with interim or monthly valuations and payments.
- 19) All work finished by the supplier must be paid for within payment terms. Non-payments to main contractor are unacceptable reasons for non-settlement of the subcontract account.
- 20) Interim weekly / fortnightly / monthly payments will be agreed at pre-contract stage to identify periods of high expenditure.
- 21) Main contractor's retention and discount must be identified on the sub contract order prior to commencement of works.
- 22) All queries concerning application for payments or invoices must be made within 7 days otherwise no claims will be considered.
- 23) For account customers, invoices will be raised on a monthly basis for payment within 30 days of invoice date, unless otherwise agreed in writing.
- 24) The payment terms described on the invoice will supersede if necessary the related items contained in this document.
- 25) A Unique Tax reference number (U T R) will be provided along with company registration number to verify gross payment status, if applicable.
- 26) All prices are "Net" unless otherwise stated and agreed in advance.
- 27) V.A.T. will be charged at prevailing rate on date of invoice. Company Reg: 8489365 VAT:164895365

<b>Signed:</b>	<b>Signed:</b>	<b>Signed:</b>
<b>Print name:</b>	<b>Print name:</b>	<b>Print name:</b>
<b>Company Name:</b>	<b>Company Name:</b>	<b>Company Name:</b>
<b>Position:</b>	<b>Position:</b>	<b>Position:</b>
<b>Date:</b>	<b>Date:</b>	<b>Date:</b>

