



Genuine Air Brake Specialist

DMW UK Limited Standard Terms and Conditions

1. GENERAL

- (a) In these conditions the expression "The Company" shall refer to DMW UK Limited.
- (b) These conditions apply to all contracts made by or with the company unless varied in writing and signed by an authorised representative of the company. The placing of an order for the goods set out in the relevant quotation and/or the acceptance of those goods shall be an acceptance of the conditions notwithstanding any other conditions which may be set out or referred to in any instructions to quote.
- (c) These conditions alone constitute the entire agreement between the parties and supersede all prior dealings, negotiations, representations or agreements whether oral or written, expressed or implied. No variation of, or addition to, these conditions shall be effective unless in writing by an authorised representative of the company.
- (d) Illustrations and information in catalogues, price lists and advertising matter are only an indication of the type of goods offered and no prices or other particulars shall be binding on the company.

2. PRICES

- (a) The company reserves the right to increase the price quoted in the acknowledgement to take account of increases in costs (including labour, overheads, transportation and raw materials) between the date of the acknowledgement of the order and the date of delivery of the goods.
- (b) All prices are net of VAT and VAT will be charged thereon at the appropriate rate for the time being.

3. PAYMENT

- (a) Payment terms (unless otherwise agreed and accepted by the company in writing) are net cash within thirty days from the date of invoice. Overdue accounts are subject to interest at the rate of 2% per month above the minimum lending rate of HSBC Plc from the time until payment is made.
- (b) Without waiving any other rights or remedies the company may have, the company may at its option defer deliveries under this contract or any other contract with the buyer until satisfactory settlement of unpaid accounts.

4. DELIVERY

- (a) The dates for delivery are estimates only given in good faith and subject to change. Whilst every effort will be made to meet the dates no liability will attach to the company for any delays or loss from failure to maintain them. Time of delivery is not the essence of the contract.
- (b) The company shall be under no obligation to delay delivery at the buyer's request but in the event of the company so doing the buyer shall pay all costs and expenses occasioned hereby including storage.

5. PROPERTY

- (a) The property in the goods shall not pass to the buyer until such time as the goods are paid for in full provided nonetheless that the risk in the goods shall pass to the buyer upon first to happen of: delivery to a carrier for carriage to the buyer, delivery to any third party on the buyer's instructions or storage at the buyer's request.
- (b) If the buyer sells or otherwise disposes of the goods before they have been paid in full, the buyer shall receive and hold the proceeds of sale or disposal as the company's agent and shall pay such proceeds to the company forthwith without prior demand.

6. LIABILITY

- (a) Save as provided in these conditions as representations, warranties or conditions expressed or implied, statutory or otherwise are expressly excluded.
- (b) The company will make good by repair, or at its option by the supply of a replacement, defects which appear in the goods on delivery and arise solely from faulty design, materials or workmanship, provided that the buyer notifies the company of any defect within 7 days of delivery unless otherwise arranged.
- (c) The company's responsibility under sub-clause 9b) shall cease if any repair is made or attempted to be made by the buyer, or if the goods are subjected to any process or alteration whatsoever.

- (d) Any goods not for the company's manufacture supplied under this contract are sold under such warranty only as the makers give the company (available on request) and the company is able without legal expense to enforce but are not guaranteed by the company in any other way.
- (e) Save as in this clause hereinbefore expressed the company shall not be under any liability in respect of defects in goods delivered or for any injury, loss or damage, including loss of production, resulting from such defects in the company's liability under this clause shall be in lieu of any warranty or condition implied by laws to the quality of fitness for any particular purpose of such goods.
- (f) The company shall not be liable to the buyer for any consequential loss of damage or for any claims against the buyer by any other party of consequential loss of damage.

7. ASSIGNMENTS

- (a) The company may assign the benefit of or any right under this contract.
- (b) The buyer may not assign the benefit of or any right under this contract without prior written consent of the company.

8. TERMINATION

- (a) If during the currency of this contract:
 - (i) The buyer makes default in payment or is in breach of its obligations, hereunder.
 - (ii) The buyer is involved in any legal proceedings in which his solvency is questioned, or is deemed to be unable to pay his debts.
The buyer (being an individual) makes or seeks to make any arrangement or composition with its creditors or commits any act of bankruptcy or if any petition or receiving order in bankruptcy is presented or made against him.
 - (iv) The buyer (being a company) any resolution or petition to wind up the buyer's business (other than for amalgamation or reconstruction) is passed or presented or a manager or receiver of the buyer's undertaking, property or assets or any part thereof appointed.
 - (v) The buyer ceases or threatens to cease trading.
The company on the giving of three days notice to the buyer shall be entitled at its option to terminate this contract and thereafter to remove all of its goods on the buyer's premises. The foregoing is without prejudice to any other rights the company may possess against the buyer for breach of these conditions.
- (b) On termination of this contract before the completion of the contract work whatsoever reason and without prejudice to any other rights the company may possess, the company shall be entitled to payment on a fair and equitable basis for such materials or work the company shall have supplied.

9. CUSTOMERS WARRANTIES

- The buyer warrants that these conditions are freely accepted on his part in the acknowledgement and on the basis that:
- (i) The contract price would be higher were the company under liability or potential liability other than as set out in these conditions.
 - (ii) Any liability or potential liability on the company other than as set out in these conditions will be disproportionate to the contract price.

10. FORCE MAJEURE

- The company shall not be liable for any failure or delay in delivery any goods or executing any work under this contract due directly or indirectly to war, hostilities, strikes, lockouts, industrial disputes whether official or unofficial, legislation of official regulation, or natural causes such as flood or tempest or to fire or accident theft or any other event outside the company's control. Where for such reason the availability of goods to the buyer is delayed the buyer shall take delivery or collect the goods within seven days of being requested by the company.

11. PROPER LAW

- This contract shall effect and be constructed in accordance with English Law and the Courts of England and Wales shall have sole jurisdiction to hear and determine any claim or action in respect of the contract.