

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1. "Gate Drive Solutions Ltd" shall mean Gate Drive Solutions Limited, or any agents or employees thereof.
- 1.2. "Client" shall mean the Client, any person acting on behalf of and with the authority of the Client, or any person purchasing Products from Gate Drive Solutions Ltd.
- 1.3. "Products" shall mean:
 - 1.3.1. all Products of the general description specified on the front of this agreement and supplied by Gate Drive Solutions Ltd to the Client; and
 - 1.3.2. all Products supplied by Gate Drive Solutions Ltd to the Client; and
 - 1.3.3. all inventory of the Client that is supplied by Gate Drive Solutions Ltd; and
 - 1.3.4. all Products supplied by Gate Drive Solutions Ltd and further identified in any invoice issued by Gate Drive Solutions Ltd to the Client, which invoices are deemed to be incorporated into and form part of this agreement; and
 - 1.3.5. all Products that are marked as having been supplied by Gate Drive Solutions Ltd or that are stored by the Client in a manner that enables them to be identified as having been supplied by Gate Drive Solutions Ltd; and
 - 1.3.6. all of the Client's present and after-acquired Products that Gate Drive Solutions Ltd has performed work on or to or in which goods or materials supplied or financed by Gate Drive Solutions Ltd have been attached or incorporated.
 - 1.3.7. The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4. "Products" shall also mean products, goods, services and advice provided by Gate Drive Solutions Ltd to the Client and shall include without limitation the importing and supply of electrical control equipment and all charges for time and attendances, hire charges, insurance charges, or any fee or charge associated with the supply of Products by Gate Drive Solutions Ltd to the Client.
- 1.5. "Price" shall mean the cost of the Products as agreed between Gate Drive Solutions Ltd and the Client and includes all disbursements e.g. charges Gate Drive Solutions Ltd pay to others on the Client's behalf subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1. Any instructions received by Gate Drive Solutions Ltd from the Client for the supply of Products shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

- 3.1. The Client authorises Gate Drive Solutions Ltd to collect, retain and use any information about the Client, for the purpose of assessing the Client's credit worthiness, enforcing any rights under this contract, or marketing any Products provided by Gate Drive Solutions Ltd to any other party.
- 3.2. The Client authorises Gate Drive Solutions Ltd to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3. Where the Client is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

- 4.1. Where no price is stated in writing or agreed to orally the Products shall be deemed to be supplied at the current amount as such Products are supplied by Gate Drive Solutions Ltd at the time of the contract.
- 4.2. The price may be increased by the amount of any reasonable increase in the cost of supply of the Products that is beyond the control of Gate Drive Solutions Ltd between the date of the contract and supply of the Products.

5. PAYMENT

- 5.1. Payment for Products shall be made in full on or before the 20th day of the month following the date of the invoice ("the due date").
- 5.2. Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3. Any expenses, disbursements and legal costs incurred by Gate Drive Solutions Ltd in the enforcement of any rights contained in this contract shall be paid by the Client, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4. Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.5. A deposit may be required.

6. QUOTATION

- 6.1. Where a quotation is given by Gate Drive Solutions Ltd for Products:
 - 6.1.1. Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
 - 6.1.2. The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
 - 6.1.3. Gate Drive Solutions Ltd reserves the right to alter the quotation because of circumstances beyond its control.
- 6.2. Where Products are required in addition to the quotation the Client agrees to pay for the additional cost of such Products.

7. RISK

- 7.1. The Products remain at Gate Drive Solutions Ltd's risk until delivery to the Client.
- 7.2. Delivery of Products shall be deemed complete when Gate Drive Solutions Ltd gives possession of the product directly to the Client or possession of the Products is given to a carrier, courier, or other bailee for purposes of transmission to the Client.
- 7.3. The time agreed for delivery shall not be an essential term of the contract.

8. CONSTRUCTION CONTRACT ACT 2002

- 8.1. That for the purpose of the Construction Contracts Act 2002 this contract is not a commercial construction contract or a construction contract whether for a commercial or residential property or work and devise liability under this contract shall be in no way limited by any contract that the Client may have entered into with a third party in relation to the supply of Goods and/or Services to that third party or the payment by the third party to the Client of any monies whether by progress payments or otherwise.

9. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 9.1. Title in any Products supplied by Gate Drive Solutions Ltd passes to the Client only when the Client has made payment in full for all Products provided by Gate Drive Solutions Ltd and of all other sums due to Gate Drive Solutions Ltd by the Client on any account whatsoever. Until all sums due to Gate Drive Solutions Ltd by the Client have been paid in full, Gate Drive Solutions Ltd has a security interest in all Products.
- 9.2. If the Products are attached, fixed, or incorporated into any property of the Client by way of any manufacturing or assembly process by the Client or any third party, title in the Products shall remain with Gate Drive Solutions Ltd until the Client has made payment for all Products, and where those Products are mixed with other property so as to be part of or a constituent of any new Products, title to these new Products shall be deemed to be assigned to Gate Drive Solutions Ltd as security for the full satisfaction by the Client of the full amount owing between Gate Drive Solutions Ltd and Client.

- 9.3. The Client gives irrevocable authority to Gate Drive Solutions Ltd to enter any premises occupied by the Client or on which Products are situated at any reasonable time after default by the Client or before default if Gate Drive Solutions Ltd believes a default is likely and to remove and repossess any Products and any other property to which Products are attached or in which Products are incorporated. Gate Drive Solutions Ltd shall not be liable for any costs, damages, expenses or losses incurred by the Client or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Gate Drive Solutions Ltd may either resell any repossessed Products and credit the Client's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and credit the Client's account with the invoice value thereof less such sum as Gate Drive Solutions Ltd reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.

- 9.4. Where Products are retained by Gate Drive Solutions Ltd pursuant to clause 9.3 the Client waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.

- 9.5. The following shall constitute defaults by the Client:

- 9.5.1. Non payment of any sum by the due date.
- 9.5.2. The Client intimates that it will not pay any sum by the due date.
- 9.5.3. Any Products are seized by any other creditor of the Client or any other creditor intimates that it intends to seize Products.
- 9.5.4. Any Products in the possession of the Client are materially damaged while any sum due from the Client to Gate Drive Solutions Ltd remains unpaid.
- 9.5.5. The Client is bankrupted or put into liquidation or a receiver is appointed to any of the Client's assets or a landlord distrains against any of the Client's assets.
- 9.5.6. A Court judgment is entered against the Client and remains unsatisfied for seven (7) days.
- 9.5.7. Any material adverse change in the financial position of the Client.

- 9.6. If the Credit Repossession Act applies to any transaction between the Client and Gate Drive Solutions Ltd, the Client has the rights provided in that Act despite anything contained in these terms and conditions of trade.

10. DISPUTES

- 10.1. No claim relating to Products will be considered unless made within fourteen (14) days from the date of installation by the certified installer.

11. LIABILITY

- 11.1. The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Gate Drive Solutions Ltd which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Gate Drive Solutions Ltd, Gate Drive Solutions Ltd's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 11.2. Except as otherwise provided by clause 11.1 Gate Drive Solutions Ltd shall not be liable for:
 - 11.2.1. Any loss or damage of any kind whatsoever, arising from the supply of Products by Gate Drive Solutions Ltd to the Client, including consequential loss whether suffered or incurred by the Client or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products provided by Gate Drive Solutions Ltd to the Client; and
 - 11.2.2. The Client shall indemnify Gate Drive Solutions Ltd against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Gate Drive Solutions Ltd or otherwise, brought by any person in connection with any matter, act, omission, or error by Gate Drive Solutions Ltd its agents or employees in connection with the Products.
 - 11.2.3. If contrary to the disclaimer of liability contained in these terms and conditions of trade Gate Drive Solutions Ltd is deemed liable to the Client, following and arising from the supply of Products by Gate Drive Solutions Ltd to the Client, then such liability is limited in its aggregate to \$500.

12. WARRANTY

- 12.1. Manufacturer's warranty applies where applicable.
- 12.2. Any written warranty that Gate Drive Solutions Ltd provides to the Client will also form part of these terms and conditions of trade.

13. COPYRIGHT AND INTELLECTUAL PROPERTY

- 13.1. Gate Drive Solutions Ltd owns and has copyright in all equipment, work, designs, software, systems, solutions, drawings, specifications, electronic data and documents produced by Gate Drive Solutions Ltd in connection with the Products provided pursuant to this contract and the Client may use the Products only if paid for in full and for the purpose for which they were intended and supplied by Gate Drive Solutions Ltd.

14. CONSUMER GUARANTEES ACT

- 14.1. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Client acquires Products from Gate Drive Solutions Ltd for the purposes of a business in terms of section 2 and 43 of that Act.

15. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 15.1. If the Client is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for Gate Drive Solutions Ltd agreeing to supply Products and grant credit to the Client at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to Gate Drive Solutions Ltd the payment of any and all monies now or hereafter owed by the Client to Gate Drive Solutions Ltd and indemnify Gate Drive Solutions Ltd against non-payment by the Client. Any personal liability of a signatory hereto shall not exclude the Client in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Client shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

16. MISCELLANEOUS

- 16.1. Gate Drive Solutions Ltd shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 16.2. Failure by Gate Drive Solutions Ltd to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Gate Drive Solutions Ltd has under this contract.
- 16.3. If any provision of this contract shall be invalid, void or illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.