

# **Swanmac Limited Standard Terms & Conditions**

**IMPORTANT** Please read this sheet, as it is the basis on which quotations are offered and orders are accepted. Acceptance of our Quotation or Order Confirmation is deemed to be acceptance of the following terms and conditions.

## Definitions

1. 'The Company' 'we' 'us' 'our' refers to Swanmac Ltd whose address is at the foot of this page, and to any authorised representative of the Company.
2. 'The Customer' 'you' refers to the individual or company who places an order with the Company and is liable to the Company for payment of invoices arising under that order.
3. 'Goods' mean any material, product, component part or service supplied by the Company.

## Pricing

4. Where we have provided a breakdown of prices, individual prices may still be dependent on the total volume. Therefore, any order for part of the work quoted may need to be re-priced.
5. Where we are providing installation and/or where our quotation is based on dimensions and/or quantities provided by the Customer, or taken by us off plans provided by the Customer, all prices shall be subject to detailed site survey.
6. Where we are providing installation and where motorised operation is specified, our prices include installation and commissioning of the products using a temporary power supply. Any electrical installation and final connection to the mains needs to be carried out by a qualified electrician and is excluded from our quotation.

## Delivery

7. Where delivery times are quoted, these are only approximate and are subject to confirmation after an order is placed.
8. The Company shall not be liable for any delays in delivery caused by circumstances beyond its control.
9. All our products are manufactured to order and therefore any order placed under this quotation that is subsequently cancelled may be subject to a cancellation fee of up to the full order value depending on the amount of work already done.
10. If delivery or installation is delayed at your request or where the Customer has failed to comply with its obligations in clause 13, the Company reserves the right to submit its invoice for payment for all or part of the order as appropriate. The Company shall also charge the Customer an additional fee for any storage charges incurred as a result of any delay in delivery or installation.

## Risk

11. The Risk in the Goods shall pass to the Customer on completion of delivery. You are responsible for the loading and unloading of the Goods and also for any damage to the Goods during the loading and unloading, however caused.

## Installation

12. Where the Company has agreed to install the Goods the Customer shall:
  - (a) co-operate with the Company in all matters relating to the fitting and installation services
  - (b) provide the Company, its employees, agents, consultants and subcontractors with access to the Customer's premises and other facilities reasonably required by the Company to provide the services
  - (c) provide the Company with such information and materials as the Company may reasonably require to provide the services, and ensure that such information is accurate in all material respects
  - (d) prepare the Customer's premises for the supply of the services
  - (e) obtain and maintain all necessary licences, permissions and consents which may be required

#### Payment Terms

13. All prices quoted are subject to the addition of VAT at the current rate at time of invoice.
14. All credit accounts are due for payment within 30 days of invoice date, unless other terms are agreed by the Company in writing.
15. Credit is given entirely at the discretion of the Company.
16. Where credit is not available, payment will be on proforma invoice or cash on delivery, as appropriate.
17. Where any discounts (including MCD) are offered, these are only available where invoices are paid strictly within 30 days.

#### Retention of Title

18. The title in any Goods sold does not pass to the Customer until full payment is received by the Company. If the goods are re-sold, than a similar retention of title clause must be passed on to each subsequent Customer.

#### Warranties

19. The Company warrants that on delivery and for 12 months from the date of delivery the Goods shall:
  - (a) conform with their description or specification
  - (b) be free from all material defects in design, material and workmanship
  - (c) be fit for any purpose held out by the Company
20. The Company shall not be liable for the Goods' failure to comply with the warranties in clause 19 if:
  - (a) the defect arises because the Customer failed to follow the Company's oral or written instructions as to storage, installation, commissioning, use or maintenance of the Goods
  - (b) the defect arises as a result of the Company following any drawing, design or specification supplied by the Customer
  - (c) the Customer alters or repairs the Goods without the written consent of the Company
  - (d) the defect arises as a result of fair wear and tear, wilful damage, negligence or abnormal working conditions
  - (e) the Company is not notified of the defect in writing within 14 days of delivery of the Goods or the occurrence of the defect
  - (f) the defect occurs more than 12 months from the date of delivery, except where a longer warranty period has been expressly agreed by the Company in writing
21. Except as provided in clause 19 the Company shall have no liability to the Customer in respect of the Goods' failure to comply with the warranties in clause 19
22. The Company makes no warranty that the Goods will be compatible or operate correctly with any component provided by a third party

#### Limitation of Liability

23. Nothing in these terms and conditions shall limit or exclude the Company's liability for:
  - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors
  - (b) fraud or fraudulent misrepresentation
  - (c) breach of terms implied by section 2 of the Supply of Goods and Services Act 1982
  - (d) breach of terms implied by section 12 of the Sale of Goods Act 1979
24. Subject to clause 23 the Company shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for loss of profit, any indirect or consequential loss arising under or in connection with the contract.
25. The Company's total liability to the Customer in respect of all other losses arising under or in connection with the contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the cost of the Goods.
26. Except as set out in these terms, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the contract.

Liability for Anti-Ligature Products & Fittings

27. Where the Company supplies and/or installs any anti-ligature products or fittings, these shall be installed strictly in accordance with the manufacturer's instructions. In the absence of any negligence or breach of duty by the Company, we will not accept any liability for loss, injury or damage caused either by the failure of the product to operate as expected or by its correct or incorrect operation. It is the Customer's duty to inform all relevant personnel of the inherent risks of such products.
28. These terms and conditions shall be governed by and construed in accordance with English law. The parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.

29. Last revision August 2012

