

ICAPS STANDARD TERMS AND CONDITIONS

(1) PRELIMINARY

ICAPS Ltd Contracts subject to the terms and conditions set out below. No additions to or modifications thereof shall form part of the contract unless accepted by ICAPS Ltd in writing. These terms and conditions shall override and take the place of any other terms and conditions in any document or other communication of/with the Customer used in concluding the contact with ICAPS Ltd.

In these conditions the Equipment means any equipment, machinery, parts, spares, software and any other goods supplied by ICAPS Ltd.

(2) TIME

- (a) Any period or times stated for delivery are estimates only and in any event ICAPS Ltd accepts no responsibility for loss or damage resulting from delay or failure to notify the Customer of any such delay.
- (b) Changes in specification or additional work or revised instructions relating to any aspect of the contract will entitle ICAPS Ltd to vary any estimates of price and/or time for completion of the contract.

(3) PRICES

Unless otherwise specified prices are for delivery ex-ICAPS Ltd offices and are subject to ICAPS Ltd's right to increase any price to take account of any delivery charges, insurance costs, special handling charges (if any) and/or packing charges (if any), agreed changes in the Specifications or changes in any taxes, duties or levies charged on or in relation to the equipment or goods, materials or services used on or in relation to this contract and/or any extra costs or expense incurred by ICAPS Ltd as a result of site conditions, delays, interruptions, lack of information, changes in exchange rates and/or without limitation any other factors beyond ICAPS Ltd control.

(4) PAYMENT

- (a) Payment terms are 30% with order, balance on delivery unless otherwise stated in writing.
- (b) In no case shall any dispute concerning any item or separate part of the Equipment or work or any further contractual obligation of ICAPS Ltd to the Customer effect the Customer's obligation in respect of payments for other parts if any part or instalment of the price is not paid when due, or work on the Equipment is held up for any reason attributable to the Customer, or the Customer incurs bankruptcy, insolvency, liquidation or the appointment of a receiver, the full price of the equipment less any sums already paid in respect of the Equipment and/or work done by ICAPS Ltd shall immediately become due and payable by the Customer and ICAPS Ltd may at its option cancel or suspend despatch.
- (c) Without prejudice to any other right of ICAPS Ltd all overdue payments shall carry interest at the rate of two per cent per month or part month on the amount or amounts for the time being outstanding.
- (d) In the event that the Customer does not take delivery of the whole quantity of the goods which are subject of any contract to which these conditions apply on the date or within the time laid down by such contract then, without prejudice to any other remedy available to ICAPS Ltd, any discount or other allowance in respect of quantities of goods ordered which is or would be otherwise allowed to the Customer shall recalculated to the level of goods and services actually accepted by the Customer.

(5) PROPERTY RISK AND INSURANCE

- (a) Property in the Equipment shall remain with ICAPS Ltd until ICAPS Ltd has received the full amount of the price or until prior sale by the Customer in which latter event ICAPS Ltd shall be entitled to the proceeds of resale or to claim for such proceeds. So long as Property in the Equipment remains with ICAPS Ltd and the Customer is in default in any obligation under this Agreement ICAPS Ltd shall have the right with or without prior notice to the Customer to re-take possession of the Equipment and for that purpose to go upon any premises occupied by the Customer and on such re-taking of possession this Agreement shall be terminated but without prejudice to the rights of ICAPS Ltd to enforce any other or additional remedy existing at the time of termination in respect of default.
- (b) The risk in the Equipment shall pass to the Customer on despatch, thereafter the Customer shall be responsible for the satisfactory care and protection of the Equipment and shall take out at its own expense adequate and comprehensive all risks cover on the Equipment (with a note of ICAPS Ltd interest endorsed thereon) until ICAPS Ltd has received payment of the price in full.

(6) DESPATCH AND DELIVERY

- (a) Unless otherwise agreed in writing delivery of the Equipment will be ex-works.
- (b) Where despatch is delayed through the Customer's unwillingness or inability to arrange carriage or to make any payment due prior to despatch ICAPS Ltd may effect delivery of the equipment by giving written notice that it is ready for despatch.
- (c) If the Equipment is stored by ICAPS Ltd after notice has been given that the Equipment is ready for dispatch the Customer shall reimburse ICAPS Ltd for all costs and expenses of storage (including any necessary transit costs and insurance).

(7) SHIPMENT

- (a) The Customer shall be responsible for inspecting the Equipment on arrival and shall notify ICAPS Ltd immediately if there is any damage, discrepancy or shortage or within 7 days after receipt of the notice of dispatch in the event of non-arrival.
- (b) The Customer specifically authorises ICAPS Ltd to make any such contract of carriage and, or insurance on behalf of the Customer as ICAPS Ltd considers necessary and

ICAPS Ltd will be under no obligation to notify the Customer thereof so as to enable the Customer to insure the Equipment during sea transit (if any). The Customer shall be responsible for complying with all conditions and requirements of the carriers.

(8) PERFORMANCE DATA

Any performance figures quoted or referred to in any specification or other document used in concluding a contract are estimated only, based on assumed conditions in a well managed office with experience, adequate and efficient operators and appropriate services, and proper use of satisfactory materials.

(9) SPECIFICATION

ICAPS Ltd reserves the right on the sale of any Equipment to make before delivery any alteration to or departure from the specification or design of the Equipment details provided that it shall not be a material extent adversely affect the performance of the Equipment of the quality of the workmanship or the materials used. All specifications, drawings and technical documents issued by ICAPS Ltd either before or after conclusion of the contract are issued solely for the Customer's use in connection with the Equipment and shall not be copied, reproduced or communicated to any third party without ICAPS Ltd express consent in writing.

(10) WARRANTY

- (a) Any defect in or failure of the Equipment shall be notified in writing forthwith to ICAPS Ltd. ICAPS Ltd will, on the basis indicated below, make good repair (at ICAPS Ltd's option) or exchange the Equipment or parts thereof which are shown to ICAPS Ltd reasonable satisfaction to have proved defective in materials or workmanship under proper use and maintenance within the period of twelve months after delivery. ICAPS Ltd shall decide whether such making good shall be effective at the offices of the Customer or at ICAPS Ltd's offices. Defective Equipment or parts which are returned by ICAPS Ltd's offices must be carriage paid by the customer both to and from ICAPS Ltd's offices and ICAPS Ltd shall not be responsible for installation of parts so returned after repair or exchange. All labour costs and expenses (if any) incurred in extracting defective parts and/or components repairing the same and installing repaired and/or replaced parts and/or components shall be borne by the Customer and if incurred by ICAPS Ltd shall be paid for by the Customer at ICAPS Ltd's then standard applicable rates.
- (b) Disputes in quality or dimensions of any one delivery shall not be a ground for cancellation of the outstanding part of the order, agreement of contract.
- (c) The warranty contained in this condition is in lieu of all conditions and warranties whatsoever (whether express or implied and whether arising at Common Law or by statute) all of which are hereby excluded to the extent permitted by law and Provided Always that nothing herein shall be deemed to exclude the warranty as title implied by S. 12 of Sale of Goods Act 1979.
- (d) The warranty given by ICAPS Ltd above shall not apply if:-
 - i) The repair replacement of a part or parts is required because of accident, neglect or misuse of the Equipment by the Customer or interference with the Equipment by persons other than ICAPS Ltd's engineers, or
 - ii) There are used in the Equipment supplies from sources which have not been authorised by ICAPS Ltd

(11) CANCELLATION

No contract or order be cancelled without ICAPS Ltd's written consent in the event that cancellation is agreed for whatever reason the Customer shall indemnify ICAPS Ltd against all costs, claims, loss and expense occasioned thereby including any consequential loss and loss of profits.

(12) GENERAL

- (a) ICAPS Ltd's liability under contract is limited to making good defects or failures to the extent provided in condition 10 hereof and subject thereto ICAPS Ltd shall not in any circumstances be liable for any loss, damage or expense (including indirect and consequential loss or damage) of any nature howsoever arising, and including but not limited to any loss resulting directly or indirectly from the negligent act or default of ICAPS Ltd, its servants, agents or suppliers or from anything supplied or specified by the Customer or from the failure to or delay in supply of any such thing. The Customer shall reimburse ICAPS Ltd for all costs, expenses, losses and damages arising directly or indirectly from the use of or late/non-delivery of anything supplied or specified by the Customer.
- (b) The Customer shall not rely upon any representations as to the Equipment or its fitness for any particular purpose, unless made by ICAPS Ltd in writing.

(13) FORCE MAJEURE AND FRUSTRATION

ICAPS Ltd shall:

- (i) In any event not be liable for loss or damage; and
- (ii) Be entitled to cancel or rescind the contract;

if the performance of its obligations under the contract is any way adversely affected by any cause whatsoever beyond ICAPS Ltd's control including but not limited to the delays or defaults of suppliers or the default of any sub contractor, war, strike, lock-out, trade dispute, flood, accident to plant or machinery, shortage of materials or labour.

(14) LAW

This contract shall be subject to and in accordance with the laws of England in all respects as an English contract subject to the jurisdiction of the English courts.