

These Conditions apply to and are incorporated by reference into any offer, or quotation issued by SIPS Industries Limited, whose Company Registration Number is SC221296, (“the Company”), or any contract entered into by the Company, within which reference to the incorporation of these terms is made, either expressly or by implication, and which relates to the manufacture of goods, the supply of goods, and / or the supply of services to the Customer (“the Contract Documents”). In these Conditions the expression "the Customer" means the person(s), firm(s) or Company(ies) to whom the offer, or quotation is addressed, or with whom the Company has otherwise so contracted.

General

1. These Conditions and the Contract Documents (“the Contract Terms”) shall form the full terms of the contract between the Company and the Customer, to which they relate. The terms of these Conditions shall take precedence over any conflicting terms contained in the Contract Documents. The Contract Terms constitute the entire agreement between the parties and any representations, terms, conditions, warranties, or prior agreements relating to the manufacture of goods, the supply of goods, and / or the supply of services to the Customer to which the Contract Terms relate, shall not be binding upon the parties. No subsequent agreement varying, adding to, or deleting from the terms of these Conditions and the Contract Documents shall be effective unless reduced to writing and signed by the Company and the Customer. Subject to any such subsequent agreement, and notwithstanding the date or dates of issue of the Contract Documents, the terms of the Contract Terms shall apply to the whole of the goods and / or services to which they relate.
2. Without prejudice to the generality of clause 1, for the avoidance of doubt, all and any price lists, delivery descriptions and other material, not forming part of the Contract Documents, are indicative only, and do not form any part of the Contract Documents.
3. In the implementation of the obligations defined by the Contract Terms and falling upon the Company (“the Company Obligations”), the Company will exercise the reasonable skill and care to be expected of a builder of ordinary competence experienced in carrying out works on projects of a similar size, scope and complexity to the project to which the Contract Terms relate. The company is NOT the principle contractor.
4. The Company does not warrant that any goods or materials used, or any design undertaken, in implementation of the Company Obligations shall be fit for any intended purpose, whether expressed or otherwise.

Design, Manufacture and Supply

5. If the Company Obligations require the Company to manufacture any goods, the Company will do so to meet only the specification contained in the Contract Documents.
6. If the Company Obligations require the Company to design the goods, which the Company Obligations require it to manufacture (“the Design”), the Customer may

inform the Company of any deficiencies in the Design meeting the Contract Documents, or discrepancies between the Design and the Contract Documents, provided that such information is given by notice to the Company, within seven days of being requested to do so by the Company. In the event that no such notice is validly and timeously given, the Customer shall be deemed to have approved that the Design meets the Contract Documents. Any Design may be communicated to the Customer in any form, including but not limited to design drawings (“the Design Drawings”). The implementation of any change to the Design instructed by the Customer in terms of clause 23.2 below after it has been approved by the Customer in terms of this clause, including any alteration of, omission from or addition to the Design Drawings, shall be charged at £60 per hour plus the actual cost of any materials required to achieve the design change.

7. The Company will only undertake engineering works (“the Engineering Works”) so far as expressly stated in the Contract Documents. The Customer may inform the Company of any deficiencies in the design of the Engineering Works (“the Engineering Design”) meeting the Contract Documents, or discrepancies between the Engineering Design and the Contract Documents, provided that such information is given by notice to the Company, within seven days of being requested to do so by the Company. In the event that no such notice is validly and timeously given, the Customer shall be deemed to have approved that the Engineering Design meets the Contract Documents. Any Engineering Design may be communicated to the Customer in any form, including but not limited to the overmarking of any drawings supplied by the Customer to the Company (“the Overmarked Drawings”). The implementation of any change to the Engineering Design instructed by the Customer in terms of clause 23.2 below after it has been approved by the Customer in terms of this clause shall be charged at £60 per hour plus the actual cost of any materials required to achieve the design change.
8. If the Company Obligations require the Company to use steel then, subject to any expressed term to the contrary within the Contract Documents, the Company may use mild steel painted with red oxide paint. The fireproofing of any such steel shall be the responsibility of the Customer.
9. Subject to any expressed term to the contrary contained within the Contract Documents, insulation of any floor, the construction of steel posts, steel beams or such similar support does not form part of the Company Obligations.
10. If the Contract Documents state that the Company Obligations are to “Supply Only”, the Company shall have no obligation to supply any labour, tools, materials (such as, but not limited to, any nails, screws, foam, or external membrane), equipment or other such additional resources in order that any goods designed manufactured or supplied in terms of the Obligations, may be erected or otherwise incorporated into the project.

Copyright

11. All documents, including but not limited to design drawings, prepared by the Company are protected by copyright. The Customer has the right to the use of and the benefit from copies of such documents for the sole purpose of completion of the project to which the Contract Terms relate (“the Project”) and subject to compliance by the Customer with the obligations defined by the Contract Terms and falling upon the Customer. Such documents must not be copied or otherwise exhibited to any third party without the Company's prior consent in writing. Where work is carried out to the Customer's specifications or instructions or where the Customer uses products or goods in breach of any patent, registered design, copyright or other intellectual property, the Customer shall indemnify the Company against all damage, penalties, costs and expenses arising out of the infringement or alleged infringement.
12. Any photographs of the Project, whether digital or otherwise, taken by or on behalf of the Company, or which otherwise come into the possession of the Company, may be used by the Company for whatever purpose, including any marketing activity by the Company.

Delivery

13. The Company will give notice to the Customer of its estimated date of delivery of any goods to the Site in terms of the Company Obligations, not less than four weeks before such date. The notice will specify the nature and extent of the access required. The Customer will provide safe and suitable access to meet the Company's notified requirements. The Customer will also provide hard standings within the Site to allow for the offloading and installation of any goods supplied in implementation of the Company Obligations. The goods will be delivered to the Site by road transport. They will be lifted by crane or telehandler, having a maximum capacity of 35 tonnes. Should a larger crane or telehandler be required, the Customer will pay the reasonable additional cost thereof to the Company.
14. The Customer will allow the Company and any of its personnel, agents or sub-contractors, access to and egress from the site of the Project (“the Site”) at all times to allow implementation by the Company of the Company Obligations.
15. The Company has no liability for any damage caused to unprotected surfaces, underground services, lawns, flower beds, or driveways on or that have to be crossed in order to gain access to, around, or egress from the Site.
16. The Site must be within mainland Britain or the Scottish isles.
17. Without prejudice to any other rights or remedies, if access to the Site provided for at clause 13 is not allowed or provided, the Company reserves the right to deliver any good or materials in implementation of the Company Obligations at the nearest reasonably available location, which may be upon a public highway.

Completion

- 18.1. The Company will implement the Company Obligations within a reasonable time having regard to the scope and complexity of any and all obligations upon the Company, forming part of the Company Obligations, to Design, manufacture, deliver and / or install any goods at the Site (“the Works”); and will carry out the Company Obligations regularly and diligently. For the avoidance of doubt, any Engineering Works form part of the Works.
- 18.2 If the Works include the installation at the Site of any goods supplied by the Company (whether or not also manufactured by it), then when the Company is of the opinion that the Works are practically complete, the Company shall give notice (“the Practical Completion Notice”) thereof to the Customer. The Customer may by notice (“the Non-Completion Notice”) to the Company given not later than five days after the date that the Practical Completion Notice is given, state the extent to which the Customer considers that the Works are not practically complete as at the date of the Completion Notice. Save to the extent stated in the Non-Completion Notice, the Works will be deemed to be complete on the date specified in the Practical Completion Notice.
- 18.3 If occurring earlier than completion under clause 18.2 hereof, completion of the Works shall be deemed to have occurred on whichever occurs earlier of any of the following events:
- 18.3.1 the Customer and the Company agree that practical completion of the Works has taken place;
- 18.3.2 the Customer, or any person authorised on the Customer’s behalf, gives notice that practical completion of the Works has taken place;
- 18.3.3 the Customer or any of its employees, agents, contractors, or sub-contractors carries out any work whatsoever falling within the scope of the Works;
- 18.3.4 any action or inaction by the Customer prevents practical completion of the Works and the Company gives notice thereof to the Customer.
19. Unless expressly stated to the contrary in the Contract Documents, the Works do not include the supply or installation by Company of holding down straps or wall ties. If specified within any Design forming part of the Works, any such straps or ties shall be fixed in accordance such specification.
20. Any steelwork forming part of the Works will be left uncovered by the Company, to allow a cold bridge to be identified; and the absence of such cover, therefore shall not evidence or in any way demonstrate that the Works are not practically complete.

Defects

21. The Rectification Period shall be one calendar year from the later date of delivery of the goods to the Site in implementation of the Company Obligations or, if applicable, practical completion of the Works. If any defects, shrinkages or other faults in the Works appear within the Rectification Period due to the materials, goods or workmanship used by the Company not being in accordance with the Contract Terms, the Customer shall give notice of the same to the Company within fourteen

days from the expiry of the Rectification Period, and provided that such notice is given, the Company shall at its own cost make good such defect, shrinkage or other fault, unless the Customer otherwise instructs.

Payment

- 22.1 Payment of the Price and any applicable Value Added Tax thereon forms part of the Contract Terms, and the Customer shall accordingly pay the Price to the Company in return for implementation by the Company of the Company Obligations. The Price shall be as specified in the Contract Documents, subject to any variation thereof under clause 23.3. The Company shall be entitled to payment of the Price (and any applicable Value Added Tax thereon) by stage payments as provided follows:
- 22.1.1 if the Works include the installation at the Site of any goods supplied by the Company (whether or not also manufactured by it):
- 22.1.1.1 10% in respect of the stage of acceptance of any offer or quotation; or otherwise of formation of any contract between the Company and the Customer, this 10% is non-refundable. ("the First Stage Payment").
- 22.1.1.2 30% in addition to the First Stage Payment, in respect of the stage of procurement of the materials reasonably required to commence the Works ("the Second Stage Payment).
- 22.1.1.3 25% in addition to the First Stage Payment and the Second Stage Payment in respect of the stage of manufacture of the goods conform to the Contract Terms ("the Third Stage Payment").
- 22.1.1.4 32.5% in addition to the First Stage Payment, the Second Stage Payment and the Third Stage Payment, in respect of the stage of delivery of the goods to the Site ("the Fourth Stage Payment").
- 22.1.1.5 2.5% in addition to the First Stage Payment, the Second Stage Payment, the Third Stage Payment and the Fourth Stage Payment in respect of the stage of practical completion of the Works.
- And each of the First Stage Payment, Second Stage Payment, Third Stage Payment and Fifth Stage Payment, shall become due by the Customer to the Company on the date which is ten days before the date upon which the corresponding stage is to occur. The Fourth Stage Payment shall become due ten days before the date upon which that stage is to commence. The final date for payment in respect of each stage shall be one day after the payment due date.
- 22.1.2 if the Works do not include the installation at the Site of any goods supplied by the Company:
- 22.1.2.1 50% in respect of the stage of acceptance of any offer or quotation; or otherwise of formation of any contract between the Company and the Customer.
- 22.1.2.2 50% in respect of the stage of delivery of the goods to the Site.
- And first stage payment shall become due by the Customer to the Company on the date which is three days after the date upon which that stage occurred. The second stage payment shall become due ten days before the date upon which that stage occurs. The final date for payment in respect of each stage shall be eight days after the payment due date.
- 22.2.1 In respect of each applicable stage stated in clause 22.1, the Company shall give a notice to the Customer stating the date upon which it considers that the payment

- due date shall occur or has occurred, not later than two days after the date so stated in the said notice. The notice under this clause shall also state the sum that the Company considers will become due on the payment due date and the basis upon which that sum has been calculated.
- 22.2.2 Subject to clause 22.2.3, the notice shall be deemed to be conclusive evidence in any proceedings under or arising out of or in connection with the Contract Terms that the payment due date to which it relates occurred on the date stated in the notice.
- 22.2.3 If any proceedings (being adjudication, arbitration or litigation) are commenced by either of the Customer or the Company within fourteen days after the giving of the notice under clause 22.2.1, and those proceedings dispute that the payment due date occurred on the date stated in the notice under clause 22.2.1, the notice shall have no effect to that extent only.
- 22.3 Not later than five days after the payment due date the Customer shall give a notice to the Company specifying:
- 22.3.1 the sum that the Customer considers to be or to have been due at the due date in respect of the payment, and 22.3.2 the basis on which that sum is calculated.
- 22.4 Not later than three days before the final date for payment, the Customer may give notice to the Company of its intention to pay less than the notified sum. The notice must specify:
- 22.4.1 the sum that the Customer considers to be due on the date the notice is served, and
- 22.4.2 the basis on which that sum is calculated.
- And upon the giving of such notice, subject to any order in any proceedings that a higher sum must be paid, the Customer shall require only to pay the sum of the notice by the final date for payment.
- 22.5 If the Customer fails to pay to the Company the amount, or any part of it, due to the Company under the Contract Terms by the final date for payment, the Customer shall pay to the Company in addition to the amount not properly paid, simple interest thereon at the rate of eight per cent per annum from the final date for payment until paid. Payment of such interest shall be treated as a debt due by the Customer to the Company. The acceptance of any payment of interest under this clause shall not in any circumstances be construed as a waiver by the Company of its right to proper payment of the principal amount due from the Customer to the Company in accordance with the Contract Terms or the right to suspend performance of all or any part of the Company Obligations pursuant to clause 22.6 or to terminate its employment under clause 38.
- 22.6 If the Customer fails to pay to the Employer the amount, or any part of it, due to the Company under the contract Terms by the final date for payment, the Company has the right (without prejudice to any other right or remedy) to suspend performance of all or any part of the Company Obligations; provided that such right is not exercised without first giving the Customer seven days' notice of its intention to suspend performance, stating the ground or grounds on which it is intended to suspend performance.

- 22.7 The right to suspend performance under clause 22.6 ceases when the Customer makes payment in full of the sum referred to in clause 22.4, or otherwise the notified sum.
- 22.8 When the right conferred by clause 22.6 is exercised, the Customer shall be liable to pay the Company a reasonable amount in respect of costs and expenses reasonably incurred by the Company as a result of exercise of the right.
- 22.9 Any period during which performance is suspended in pursuance of, or in consequence of the exercise the right conferred by clause 22.7 shall be disregarded in computing the time taken by the Company to fulfil the Company Obligations and affected directly or indirectly by the exercise of the right.

Variations

- 23.1 The Company shall not make any material alteration or omission to the Contract Terms without the prior consent of the Customer, except when arising from an emergency necessitated during implementation of the Company Obligations.
- 23.2 The Customer may instruct any reasonable changes to the Contract Terms, by giving the Company seven days notice thereof.
- 23.3 Except to the extent provided for at clauses 6 and 7 above, the Price shall be adjusted by a reasonable amount to reflect any change in the scope of the Contract Terms.
- 23.4 Unless otherwise agreed in writing between the Company and the Customer, the Price is based on the cost of the goods, materials, labour, plant and/or services forming part of the Works, and the Company reserves the right to adjust the Price in the event of any fluctuation in the actual cost of any such goods, materials, labour, plant and/or services occurring after the last date of the Contract Documents.

Customer's Obligations

24. By not later than the date that the First Stage Payment becomes due, the Customer shall provide to the Company references by two third parties, who are themselves of good financial standing and repute, and who have previously contracted with the Customer, of creditworthiness of the Customer.
25. Subject to any expressed terms in the Contract Documents, if the Contract Documents require the Company to install any goods at the Site, it will be the Customer's obligation to construct suitable foundations upon which the goods shall be so installed. The Customer shall be responsible for the accuracy of the setting out, dimensions, levels and suitability of such foundations to support the installation of the goods. All substructure works shall be completed by the Customer prior to installation.

26. The Company is not responsible for any supporting structure or foundation work not designed and manufactured by the Company and the Company accepts no liability in respect of any consequences of the insufficiency of any such supporting structure or foundation.
27. The Customer shall be responsible for maintaining adequate security of the Site.
28. The Customer shall inform the Company of the position on the Site of any overhead cables, upon the request of the Company before delivery of the Goods to the Site.
29. If the Contract Documents require the Company to install any goods at the Site, the Customer shall timeously supply and erect any scaffolding required by the Company to safely do so.
30. The Customer shall provide the Company with safe and secure facilities at the Site, for storage by the Company of its tools, plant and equipment reasonably required by the Company to implement the Company Obligations.
31. The Customer shall supply such toilet facilities at the Site as may reasonably be required by the Company.
32. The Customer shall supply such waste disposal facilities at the Site as may reasonably be required by the Company.
33. Unless expressly stated otherwise in the Contract Documents, the Customer shall be responsible for the provision and connection of all and any services to the Site and to any goods installed by the Company as required by the Company Obligations.
34. The Customer shall co-operate in good faith with the Company and shall not prevent or obstruct the proper performance by the Company in the implementation of the Company Obligations.
35. The Customer shall procure that all and any third parties involved in the Project shall, co-operate with the Company in good faith and shall comply with and adhere to all reasonable requests by the Company to them or any of them.
36. The Customer shall indemnify the Company against all and any claims against the Company by any third party, for whatever reason not being a breach by the Company of the Company Obligations.
37. The Customer shall ensure that the Works comply with all and any applicable statute, statutory instrument, regulation, rule or order made under any statute or directive or any bye-law made by any local authority or statutory undertaker; and the Company shall have no liability in respect of any non-compliance, except insofar as otherwise imposed by law.

Early Termination

- 38.1 Without prejudice to any other right or remedy that the Company or the Customer may have in respect of breach by either party of the Obligations:
- 38.1.1 Should either party commit a material breach of any of the Obligations and shall fail to remedy that breach within fourteen days of being called upon to do so by notice by the other party, then the party aggrieved by such breach shall be entitled to terminate further performance of any of the Obligations forthwith by giving further notice thereof to the other party.
- 38.1.2 Either party may by notice terminate further performance of the Obligations where the other party is apparently insolvent; bankrupt; makes any composition or arrangement with creditors or a proposal for a voluntary arrangement for a composition of debts or scheme or arrangement approved in accordance with the Insolvency Act 1986, or any amendment or re-enactment thereof (“the Act”); makes an application to the court for the appointment of an administrator; enters into of a trust deed or debt arrangement scheme; makes an application to the court for winding up; passes a resolution for voluntary winding up; appoints an administrative receiver; or is unable to pay its debts within the definition of section 123 of the Act.

Limitation of Liability

39. The Company’s liability arising from or in connection with the Company Obligations, whether in contract, delict or otherwise, shall be limited to that proportion which it would be just and equitable to require the Company to pay having regard to the extent of the Company’s responsibility for the same and on the basis that all and any other professionals involved in the Project shall be deemed to have provided undertakings on terms no less onerous than this clause to the Customer in respect of performance of their obligations in the Project and shall be deemed to have paid the Customer such proportion which it would be just and equitable for them to pay having regard to the extent of their responsibilities; and in any event shall be limited to the Final Sum; and the Customer hereby waives all and any claims of any nature other than arising from death or personal injury insofar as such claims exceed the Final Sum.
40. All contractual, delictual or other claims against the Company shall be extinguished upon the lapse of a period of five years from the later date of delivery of the goods to the Site in implementation of the Company Obligations or, if applicable, practical completion of the Works.
41. The Company is not responsible for the underfoot conditions, damage to the ground caused by plant and machinery, mud on roads or damage to underground and/or overhead services. The Company will not be liable for any loss or damage howsoever caused in the implementation of the Obligations, to the Site, or to any land or property belonging to the Customer, not being the Site.
42. The Company shall not be liable for any loss costs or damage including but not limited to indirect or consequential loss or loss of profit or business sustained by the

Customer arising or in connection with breach by the Company of any of the Company Obligations.

43. In the event that terrorism, war, strikes, combinations of workmen, lock outs, accidents, fire, adverse weather conditions, natural disasters, fluctuations in the price of any goods reasonably required in the implementation of the Company Obligations, changes in the applicable law, or other exceptional or unforeseen circumstances cause a stoppage of or disruption to implementation of the Company Obligations, such stoppage or disruption shall not constitute a breach by either party of the Contract Terms.
44. Any term as to the quality or fitness for any purpose of goods, materials, labour, workmanship or other services not expressly stated within the Contract Terms are excluded to the full extent permitted by Law.

Insurance

45. The Company warrants that provided the same is available at commercially reasonable rates, the Company has and shall maintain insurance in the sum of One Million Pounds (£1,000,000.00) Sterling for any one claim or series of claims arising from one event of fire, theft, extreme weather conditions, Acts of God, or other loss or damage to any goods delivered to the Site in implementation of the Company Obligations, for the period commencing on the date of commencement of the Contract Terms and ending on the date which is five years from and after the later date of delivery of the goods to the Site in implementation of the Company Obligations or, if applicable, practical completion of the Works.

Warranty

46. The Customer warrants and represents that he has complied with all and any requirements imposed by law, relative to the Project and without prejudice to the foregoing generality, the provisions of any statute, order, regulation, direction, or bye law; or of any lawful requirement or instruction whether of the Government or any local or other authority which is relative to the Project; and further the Customer warrants and represents that the Customer has lawfully obtained every necessary licence, permit or authority that may be required in connection with the Project.

Retention of Title

47. The Company shall retain title to any goods supplied to the Customer or otherwise delivered to the Site, in implementation of the Company Obligations, until the Contract terms have been fully implemented. The Company reserves the right to dismantle and remove any goods so supplied, or delivered in the event of any material breach by the Customer of the Contract Terms. The Customer must allow the Company's staff access to the site for this purpose.

Assignment

48. The Customer shall not cede, assign, sublet or transfer its interests in the Contract Terms, without the prior written consent of the Company, which consent shall not be unreasonably withheld.

Set Off

49. The Customer shall not withhold or reduce any amount of the Price by reason of claims or alleged claims against Company. All rights of set off which the Consumer may otherwise have are hereby expressly excluded.

Dispute Resolution

50. Notwithstanding clause 51, either party may refer any dispute or difference arising from or in connection with the Contract Terms to adjudication under the Scheme forming the schedule to the Scheme for Construction Contracts (Scotland) Regulations 1998, or any amendment or re-enactment thereof, and in respect of such reference, the adjudicator nominating body shall be the Scottish branch of the Chartered Institute of Arbitrators.
51. Any dispute or difference arising out of or in connection with the Contract Terms, including any question regarding its existence, validity or termination, shall be determined by the appointment of a single arbitrator to be agreed between the parties, or failing agreement within fourteen days after either party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the Scottish branch of the Chartered Institute of Arbitrators on the written application of either party. The seat of arbitration shall be Scotland. The language to be used in the arbitral proceedings shall be English.

Waiver

52. Waiver of any or all of the Contract Terms on any occasion shall not prejudice or affect the Company's rights and remedies in respect of any subsequent breach, non-observance by the Customer of these.

Notices

53. Any notice required under the Contract Terms, except the notice provided for by clause 22.2.1 which may be given by any effective means, shall be given by either party to the other party by first class recorded delivery post to the address of the recipient party stated in the Contract Documents; and such notice so given shall be deemed to have been received two days after the date that the notice is so given.
55. Any other communication between the parties not being a notice required by the Contract Terms may be given in writing by any effective means.

Confidentiality

56. The parties shall and shall procure that their personnel, agents, contractors and/or sub-contractors keep confidential between the terms of the Contract Terms, and of all any other documents in connection with the Project and issued by them or either of them, save to the extent required by law or by order of any court having jurisdiction.

Construction (Design and Management) Regulations 2015 (“the CDM Regulations”)

57. It is hereby acknowledged and agreed that the Company has not been appointed, is not appointed under the Contract Terms or otherwise, and shall not be appointed as the Principal Designer and/or the Principal Contractor relative to the Project, within the meaning of the CDM Regulations. It is further acknowledged and agreed that the Customer has appointed or shall appoint a party or parties other than the Company to act as the Principal Designer and the Principal Contractor as aforesaid relative to the Project. Without prejudice to any other rights or remedies that the Company may have, whether under these Conditions or otherwise, the Customer will indemnify the Company against and will reimburse the Company in full for all costs, expenses and/or liabilities incurred by the Company arising from or in connection with any failure by the Customer to appoint a Principal Designer and/or Principal Contractor as aforesaid or arising from or in connection with any other breach by the Customer of the obligations upon the Customer relative to the Project under and in terms of the CDM Regulations.

Governing Law and Jurisdiction

58. The Contract Terms shall be governed by and construed in accordance with of the laws of Scotland and the Scottish courts shall have exclusive jurisdiction in respect of any dispute or difference arising from or in connection with the same.