

Aztec Umbrella Systems Ltd

TERMS & CONDITIONS

GENERAL TERMS

1 Interpretation

1.1 In these Conditions:

"Customer" is the person who accepts a quotation of Aztec Umbrella Systems Ltd (Aztec) for the sale of the goods and or whose order for the goods and/or services is accepted by us.

"Conditions" means the standard terms and conditions of sale as set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and Aztec.

"Contract" means the contract for the purchase and sale of the Goods.

"Goods" means the goods (including any instalment of the goods or any parts or accessories for them) which Aztec is to supply in accordance with these Conditions.

"Aztec" means Aztec Umbrella Systems Limited (registered in England and Wales under Company No. 10423386).

"Services" mean the design, specifying, project management, installation or other services, as specified by Aztec in writing, which Aztec is to supply in accordance with these Conditions. Services include commissioning Goods and training given at that time. Additional training will be subject to extra charge by Aztec and will be specific to the product.

"Specification" means the specification for the goods and services as stated or acknowledged by Aztec in writing via post or email.

1.2 In these Conditions, the headings are for convenience only and shall not affect their interpretation and the singular includes the plural and vice versa.

2 Basis of the sale/supply

2.1 Aztec shall sell and the Customer shall purchase the goods and services in accordance with any quotation of Aztec which is accepted by the customer (whether in writing or by placing an order for, accepting or paying for any goods or services or by any other conduct), or any order of the Customer which is accepted by Aztec (whether in writing or by appropriating goods to the Contract or by other conduct), subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer. When you enter into your order after a deposit has been paid, you are agreeing to our terms and conditions.

2.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and Aztec.

2.3 Aztec employees or agents are not authorised to make any representations concerning the goods unless confirmed by Aztec Head Office in writing. In entering into the Contract, the Customer acknowledges that it does not rely on any such representations which are not confirmed.

2.4 Any advice or recommendation given by Aztec or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the goods and any representation that the goods are suitable for a particular purpose, which is not confirmed in writing by Aztec is followed or acted upon entirely at the Customer's own risk, and accordingly Aztec shall not be liable for any such advice, recommendation or representation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by Aztec shall be subject to correction without any liability on the part of Aztec.

2.6 While Aztec will take all reasonable care to comply with legal requirements in its drawings, the customer is responsible for obtaining any necessary local authority, fire authority or other consents or permissions. specifically, it shall be the customer's responsibility for obtaining any necessary planning permissions or

building regulations approvals for the Goods and Services in good time prior to the due dates for delivery and performance.

2.7 The Customer is responsible for ensuring that the site is clear, clean and level prior to the due date for delivery of the Goods and performance of the Services. The customer is also responsible to ensure any groundworks are adequate for goods being delivered. Any time wasted on site or spent on site providing additional services due to the Customer's breach of this clause will be chargeable by Aztec. Any necessary modifications to goods due to incorrect finished building dimensions will be charged to the Customer by Aztec.

2.8 The Customer shall ensure that Aztec has vehicle/lorry access within 20 metres of the installation site and that all doorways, entrances, stairways and access points will be wide enough to allow the goods to pass through, without alteration or dismantling. Aztec will issue details if minimum heights and widths required, on request in writing). Where sufficient access is not provided and Aztec endeavour to deliver the goods or remove existing equipment, Aztec accept no liability for and loss or damage caused. Aztec reserve the right to charge the Customer in the event that the Customer breaches the requirements of this clause.

2.9 The Customer shall ensure that all services are provided unless otherwise agreed in writing. The Customer shall be responsible for providing correct, live, isolated services and for ensuring that the site has sufficient incoming services for gas and/or electrical requirements for the Goods and all other equipment on site. All services must be live and connected at the due date for supply of the Services and installation of the Goods, to facilitate testing and commissioning. If Aztec are required to return at a later date for such purpose, Aztec may charge the Customer. In relation to electrical work, secondary earth bonding is not included. The Customer must arrange this with its main electrical contractor who will also issue the NIC EIC certificate.

2.10 Once the customer has pad their deposit there is a 48 hour time period where deposits can be returned if required. After this time, all deposits are non refundable.

2.11 In these Conditions, wherever there is a reference to Aztec charging the Customer, such charging shall be in accordance with Aztec scale of charges applicable at that time.

3. Orders specifications and descriptions

3.1 Unless otherwise agreed in writing in advance, no order submitted by the Customer shall be deemed to be accepted by Aztec unless and until confirmed in writing by an Aztec authorised representative.

3.2 The Customer shall be responsible to Aztec for ensuring the accuracy of the terms of any order, the Specification and for giving Aztec any necessary information relating to the Goods within a sufficient time to enable Aztec to perform the Contract in accordance with its terms.

3.3 The quantity, quality and description of the Goods and Services shall be those recorded by Aztec (whether in the Specification or elsewhere).

3.4 Aztec reserves the right, on giving reasonable prior notice to the Customer, to make any changes in the Specification of the Goods and Services which are required to conform with any applicable statutory or regulatory requirements.

3.5 No order which has been accepted by Aztec may be cancelled by the Customer except with the agreement in writing of Aztec and on terms that the Customer shall indemnify Aztec in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges (including cancellation charges of suppliers) and expenses incurred by Aztec as a result of cancellation, including any cancellation costs of any related sub-contract.

4. Price of the Goods

4.1 The price of the Goods and Services shall be the Aztec quoted prices or, where no price has been quoted (or a quoted price is no longer valid having been given 30 days or more previously), Aztec price for the relevant Goods and Services current at the date for performance of the Services or delivery of the Goods, as appropriate.

4.2 Aztec reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Goods or Services to reflect any increase in the cost to Aztec which is due to any factor beyond

the reasonable control of Aztec (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties or customs charges, increase in the costs of labour, materials or other costs of production, including quality control), any change in delivery dates for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give Aztec adequate information or instructions. Aztec shall be entitled to increase the price in the event that Aztec or its employee or agent made an error or omission when quoting a price for the Goods or Services.

4.3 The price is exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to Aztec.

5. Terms of payment

5.1 Aztec shall be entitled to invoice the Customer for the price of the Goods and Services on or at any time prior to delivery of the Goods, being the point of unloading at the Customer's site (or the due date for delivery, if delivery cannot be effected for any reason).

5.2 Unless otherwise specified by Aztec at the time of order acceptance or in a special condition or where the Customer is an Account Holder within its credit limit, the Customer shall pay the price of the Goods and Services (without any deduction or set off), within the terms on the invoice issued and Aztec shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract. A Customer having an authorised credit account with Aztec (an "Account Holder") shall be entitled to a credit period of up to 30 days for payment from the date of invoice, provided such Customer remains within its credit limit. If it does not do so, normal payment terms will apply until the Customer is re-authorised by Aztec.

5.3 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to Aztec, the full price of all Goods delivered to and Services performed for the Customer under any contract with Aztec but not paid for, shall become immediately due and payable (notwithstanding any previously agreed credit terms) and Aztec shall be entitled to do all or any of the following:

5.3.1 by notice, terminate the Contract and recover from the Customer the contract price of the goods and services and all losses, expenses and costs suffered or incurred by Aztec.

5.3.2 suspend or withhold any further performance of services or deliveries of goods to the Customer without liability to the Customer.

5.3.3 appropriate any payment made by the Customer to such of the Goods or Services (or the goods or services supplied under any other contract between the Customer and Aztec) as Aztec may think fit (notwithstanding any purported appropriation by the Customer).

5.3.4 Charge the Customer interest (both before and after any judgment) on the amount unpaid, at the rate of 6% per month above Aztec Banks base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6. Delivery

6.1 Any dates quoted for performance of the services and delivery of the goods are approximate only and Aztec shall not be liable for any delay in performance of the Services or delivery of the Goods however caused. Time for delivery shall not be of the essence of the contract. The Goods may be delivered by Aztec in advance of the quoted delivery date upon giving reasonable notice to the Customer. Bespoke sizes are excluded from standard lead times and approximate delivery schedules can be offered.

6.3 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by Aztec to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.

6.4 If Aztec fails to deliver the Goods (or any instalment) for any reason other than any cause beyond Aztec's reasonable control or the Customer's fault, and Aztec is accordingly liable to the Customer, Aztec liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.5 If the Customer fails to take delivery of the Goods or fails to give Aztec adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's control or by reason of Aztec fault) then, without prejudice to any other right or remedy available to Aztec, we may:

6.5.1 recover the expense of the carrier's standing time at the point of delivery;

6.5.2 store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage: or

6.5.3 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.

6.6 If the Customer fails to allow or interferes with performance of the Services or fails to give Aztec adequate performance instructions at the time stated for performance (otherwise than by reason of any cause beyond the Customer's control or by reason of Aztec fault) then, without prejudice to any other right or remedy available to Aztec, we may invoice the Customer for the contractual price of the Services as if they had been performed.

6.7 Unless within 48 hours of installation of the Goods Aztec is notified to the contrary, all Goods and Services supplied shall be deemed to have been received complete and in good condition and accepted by the Customer as being in accordance with the Specification and this Contract. Notice of any damage, non-compliance with Specification, shortage or non-arrival must be given by the Customer to Aztec within such 48 hour period.

7. Equipment

7.1 All Services will be carried out to comply with the relevant legal requirements during normal working hours and one continuous visit. Any additional visit will be chargeable.

7.2 All equipment supplied will be as close to the size, shape and colour as possible and it is agreed that factory differences can occur. Fabric differences can also occur in different factory batches.

7.3 All equipment should be used in conjunction with the standard operating practices given by Aztec via on site training or written.

7.4 Any bespoke projects are exempt from our standard lead times as well as any environmental forces due to natures of testing but will still be covered under our standard warranty.

7.5 If any defects or errors occur, Aztec will be given the opportunity to correct these errors or defects within an agreed reasonable time frame.

8. Risk and property

8.1 Risk of damage to or loss of the Goods shall pass to the Customer upon delivery and the Customer is advised to insure accordingly.

8.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Customer until Aztec has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by Aztec to the Customer for which payment is then due.

8.3 Until such time as the property in the Goods passes to the Customer, the Customer shall hold the Goods as Aztec fiduciary agent and bailee, and shall keep the Goods in good condition and appropriate environmental and other conditions to maintain the quality of the Goods, separate from those of the Customer and third parties and properly stored, protected and insured and identified as Aztec property.

8.4 Until such time as the property in the Goods passes to the Customer, Aztec shall be entitled at any time to require the Customer to deliver up the Goods to Aztec and, if the Customer fails to do so immediately, Aztec is hereby granted an irrevocable licence to enter on or in any premises or vehicles of the Customer or any third party where the Goods are loaded, stored or being processed and repossess the Goods. (The Customer shall procure such rights for Aztec from any such third party).

8.5 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of Aztec, but if the Customer does so all sums owed by the Customer to Aztec shall (without prejudice to any other right or remedy of Aztec) immediately become due and payable.

8.6 The copyright and all other intellectual property rights in any software, design, drawing, Specification, work, invention or improvement made or created or used by Aztec in the course of, or for the purposes of providing the Services and/or installing the Goods shall remain the sole property of Aztec. If Aztec provides drawings to the Customer (which it may do subject to payment of its then applicable charges), the copyright in such drawings shall remain with Aztec, but provided the Customer enters a Contract with Aztec and pays for all Goods and Services supplied in full, the Customer shall have a non-exclusive licence to use them solely for the purposes specified by Aztec. All such drawings and copies must be returned to Aztec on request.

8.7 Aztec accepts no responsibility for any Customer equipment or tools left on site or for the security of the site, during the installation period.

9. Warranties

9.1 Subject to the conditions set out below, Aztec shall use its best endeavours to transfer to the Customer the benefit of any manufacturer's warranty applicable to any of the Goods and Aztec itself warrants that the Services will be performed with reasonable skill and care. We offer a standard warranty of 2 years unless otherwise agreed prior to the sale.

9.2 If Aztec accepts all or part of a warranty claim relating to services, its obligation under this warranty shall be, in its discretion, either to re-perform the relevant services at no further charge or to refund a proportionate part of the price applicable to such Services, but Aztec shall have no further liability for breach of warranty.

9.3 The above warranty as to services is given by Aztec subject to the following conditions:

9.3.1 Aztec shall be under no liability in respect of any error or defect in the services arising from any drawing, design or specification supplied by the Customer;

9.3.2 Aztec shall be under no liability in respect of any error or defect arising from fair wear and tear, wilful damage, wind damage, negligence, abnormal working conditions, failure to follow Aztec instructions (whether oral or in writing), misuse or alteration of the Goods or any other product of the Services or abuse of the product of the Services or when the Services are connected to or utilised with other systems or services without Aztec's approval ("Excluded Events");

9.3.3 repairs to or replacements of damaged parts caused by external forces shall be chargeable by Aztec at current rates;

9.3.4 Aztec shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods and Services has not been paid by the due date for payment;

9.3.5 the above warranty does not extend to services not actually performed by Aztec, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the relevant sub-contractor or supplier; and

9.3.6 the above warranty shall not apply if any repairs or maintenance services are carried out on the Goods other than by Aztec or accredited installers.

9.4.7 You must keep your operation sticker on your umbrella at all times in order to retain your warranty.

9.4 The Customer shall be solely responsible for deciding that the goods ordered or required are sufficient and suitable for the purpose they require and Aztec shall have no liability for any performance failure or defect in the goods, except as stated in this clause.

9.5 Subject as expressly provided in these conditions, all warranties, conditions or other terms, whether express or implied and whether under statute or common law, are excluded to the fullest extent permitted by law. In particular, Aztec gives no warranty whatsoever, makes no representation and accepts no liability regarding any date change compliance of the Goods or Services or any other goods or services.

10. Liability

10.1 Aztec accepts no liability for direct loss of or damage to the tangible property of the Customer caused by negligence of others or breach of contract, unless terms agreed.

10.2 Except in respect of death or personal injury caused by Aztec negligence (in respect of which Aztec liability shall be unlimited), Aztec shall not be liable to the Customer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit, economic loss or any indirect, special or consequential loss or damage (whether for loss of profit, goodwill, reputation, contracts or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of Aztec, its employees or agents or otherwise howsoever and whether or not reasonably foreseeable) which arise out of or in connection with the production or supply of the Goods or their use or resale by the Customer or the provision of or reliance upon the Services or any other services provided by Aztec.

10.3 Aztec shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Aztec's obligations in relation to the Goods or Services, if the delay or failure was due to any cause beyond Aztec reasonable control ("force majeure"). At any time while a force majeure exists, Aztec may, on giving notice to the Customer, cancel the Contract in so far as it remains to be performed, without liability to the Customer, without prejudice to Aztec right to payment for all Goods delivered and Services performed prior to such cancellation.

10.4 The Customer hereby indemnifies Aztec in relation to any claim, including but not limited to any intellectual property infringement claim, or liability, including but not limited to any liability for damages, interest, legal or other costs and expenses, (whether of Aztec or any third party), arising from the use by Aztec of any specification, design, drawing or diagram provided by or on behalf of the Customer.

11 Insolvency of Customer

11.1 This clause applies if the Customer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or an encumbrancer takes possession of, or a receiver (or administrator) is appointed over any of the property or assets of the customer; or anything analogous to any of the foregoing occurs in relation to the Customer in any jurisdiction; or the Customer ceases, or threatens to cease, to carry on business; or Aztec reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

11.2 If this clause applies then, without prejudice to any other right or remedy available to Aztec, Aztec shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Services have been performed or the Goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12 General

12.1 Any notice to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Hand delivered and email notices shall take effect on receipt (provided that email notices are served on a day if received during business hours in the country of receipt on that day, or at 9.00 am on the next business day, if not). Postal notices shall be deemed served two working days after posting if the sender and recipient are in the same country and seven days after posting, if not).

12.2 No waiver by Aztec of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.3 If any provision of these Conditions is held by any court or competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

12.4 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Contract promptly through negotiations between the respective senior executives of the parties who have authority to settle the same.

If the matter is not resolved through negotiation, the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the Centre for Dispute Resolution, London. If the matter has not been resolved by an ADR procedure within 30 days of the initiation of such procedure, (or such other period as may be agreed) or if either party will not or ceases to participate in an ADR procedure, the dispute shall be referred to the English Courts.

12.5 The Contract shall be governed by the laws of England and the Customer agrees to submit to the exclusive jurisdiction of the English Courts.