



## **STANDARD CONDITIONS OF SALE**

The acceptance of this quotation includes the acceptance of the following terms and conditions:

1. Information provided. With the acceptance of this tender sufficient information must be submitted to enable us to proceed forthwith with the order. Otherwise, we are at liberty to amend the tender to cover for any increase in price which may have taken place after acceptance.
2. Scope of offer: This tender only includes for such goods and work as are mentioned therein.
3. Withdrawal of offer: We reserve the right to withdraw this tender in the absence of your official acceptance. The tender is only open for acceptance for the period stated therein or, if no period is stated, then for thirty days from the date of the tender.
4. Provision of samples: Any samples submitted must be returned to our works (carriage paid) within one month from receipt, otherwise they must be paid for.
5. Drawings and data approximate: All drawings, descriptive matter, weights, dimensions and shipping specifications submitted with this tender, and the descriptions and illustrations contained in our catalogues, price lists and other advertising matter, are approximate, and are not guaranteed correct. After acceptance of this tender, a certified set of outline drawings will be supplied free to you, if desired.
6. Special tests: Our productions are carefully inspected and submitted to our standard works tests before despatch. Any special test or tests in the presence of you or your representative are charged for extra. Unless otherwise allowed for in the tender, all tests must be conducted at our works.
7. Expected Performance: Any figures given for performance are based on our experience and are such as we expect to obtain on test. We will, however, accept liability only when we guarantee such figures within specified "tolerances" and then only upon an agreed penalty (as liquidated damages) and bonus if tolerances are exceeded.

In the event of goods proving defective or performance failing to fulfil the terms of guarantee, reasonable time and opportunity to remedy the defect or comply with the terms of the guarantee shall be given us. If we fail, then either party may cancel the contract by notice in writing as from date without claim by or against the other, except as regards any penalties which may have been previously defined.

8. Delivery time: The time for despatch stated in the tender is to date from the receipt by us of the written order to proceed with the work and all other necessary information which will enable us to commence construction or supply. We shall use every endeavour to despatch to time, but accept no liability unless definite guarantees are entered into whereby penalties (as liquidated damages) are agreed upon for late delivery and a bonus provided in case of despatch before time. Should despatch be delayed by strikes, lock outs, defective material, approval of drawings or any cause beyond our control then a fair extension of time shall be granted us to complete the work.

If the Purchaser imposes a hold point that prevents M.Brodribb from proceeding with its obligations (e.g. drawings requiring the Purchaser's approval before M.Brodribb can proceed with manufacture) then where the time between M.Brodribb's first submission of any item requiring approval by the Purchaser and the Purchaser notifying M.Brodribb of approval to proceed exceeds 5 business days, M.Brodribb is entitled to claim a delay to the delivery schedule for the days over 5 business days that the approval takes. In that case, M.Brodribb may provide the Purchaser notice of the delay and the revised delivery time which will then replace the original delivery time set out in the offer.

If an event, circumstance or cause beyond M. Brodribb's reasonable control arises (force majeure event) which causes delays by M. Brodribb in complying with the delivery schedule and its obligations under this offer, M. Brodribb will give notice of the force majeure event and the anticipated delay to the Purchaser and M. Brodribb shall have the time for performance of the affected obligations extended for a period equivalent to the period during which performance has been delayed, hindered or prevented and M. Brodribb will not be in breach of contract and will not be liable for damages arising from the force majeure event. Events relating to the COVID-19 pandemic may cause delays and any such events will be considered a force majeure event.

9. Delivery conditions DAP. Unless otherwise specified, free delivery means delivery as DAP (Incoterms) within the metropolitan area. Unloading of the equipment is the responsibility of the purchaser.
10. Terms of Payment: Where no other terms are specified, payment shall become due upon notification by us that the goods have been tested or are ready for despatch. Any liability on our part is subject to the terms of payment and all your other obligations of the contract being strictly observed.
11. Delay of dispatch: If we do not receive forwarding instructions sufficient to enable us to despatch within fourteen days after notification that the goods are ready for despatch, a charge may be made for storage and fire insurance until the goods are despatched, and the goods shall be paid for as if they had been despatched.
12. Damage in transit: When our price includes delivery, we will repair or replace free of charge goods damaged in transit, provided that we receive written notice of such damage within three days of delivery, but not otherwise.
13. Warranty conditions.
  - a) The equipment we supply is warranted to be free of any material defects in manufacture for 12 months from delivery unless a different warranty condition is specifically stated in our offer
  - b) Subject to any other clauses in our offer, the Purchaser may reject as defective any equipment delivered to it that does not comply with the purchase requirements provided that the Purchaser gives notice of rejection.
  - c) the Purchaser must inspect all equipment immediately on receipt of the equipment and before use. The Purchaser must notify M. Brodribb of any defective equipment.
  - d) Upon such notification of defective equipment, the Purchaser must:

- i. provide any evidence requested by M. Brodribb; and
- ii. allow M. Brodribb or its representative to inspect the equipment to determine whether they are defective (this includes granting M. Brodribb or its representative unimpeded access to inspect such equipment).
- e) If the Purchaser is aware or ought reasonably to be aware that the equipment is defective for any reason, then the Purchaser must take all necessary steps to mitigate any loss or damage.
- f) If M. Brodribb is notified of defective equipment and agrees it is defective (acting reasonably) then M. Brodribb will at its election either repair or replace the defective equipment.
- g) Any replacement of parts or repairs to the equipment must be authorized by M. Brodribb and must be performed by M. Brodribb or a certified third-party. Any unauthorized fitting of parts or accessories to the equipment will not be covered by warranty.
- h) Costs incurred to fix the problem agreed upon by M. Brodribb shall be borne by M. Brodribb should the warranty claim be upheld. However, if it is determined that the fault is not covered by the warranty claim or was the responsibility of the Purchaser, such costs shall be borne by the Purchaser.
- i) Notwithstanding any other clause in this offer, M. Brodribb will only be responsible for defects in the equipment and components that M. Brodribb supplies. To the extent permitted by law M. Brodribb will not be liable for or required to accept any return for any defect or damage where such defect or damage is caused or partly caused by or arises as a result of:
  - i. the Purchaser's acts or omissions, including the Purchaser failing to take reasonable steps to prevent them from becoming defective or the Purchaser failing to follow M. Brodribb's instructions or best industry practice;
  - ii. the Purchaser failing to carry out proper maintenance;
  - iii. M. Brodribb following any drawing, design or instruction supplied by the Purchaser;
  - iv. the Purchaser altering or repairing the equipment without the written consent of M. Brodribb;
  - v. misuse, abuse, wilful damage, negligence, or abnormal storage or working conditions;
  - vi. fair wear and tear or normal deterioration;
  - vii. the fitting of parts or accessories not authorised by the manufacturer;
  - viii. accident, fire, theft or moving objects striking the equipment;
  - ix. industrial fallout, chemicals or sealants;
  - x. atmospheric fallout or flood, hail, salt and similar; or
  - xi. any accident or circumstance outside the reasonable control of M. Brodribb.

- j) the Purchaser must ensure that if it on-supplies the equipment to any third party (such as its customer/s), it must ensure that the third party complies with all of the obligations imposed on the Purchaser under the terms of this warranty. Any act or omission of a third party will be deemed an act or omission of the Purchaser for the purposes of this clause.
- 14. Pricing basis at time of tender: The prices quoted are those ruling at date of tendering and may be subject to variation with any alterations to material prices, wage rates and/or conditions of employment which become effective between the dates of acceptance of tender and despatch of goods.
- 15. Variations: If the Purchaser requires any variations to the scope or delivery schedule the Purchaser may request them from M.Brodribb. M.Brodribb is not obliged to agree to any requested variation. If M.Brodribb does agree, then it will advise the Purchaser the effect that the variation will have on the offer price and delivery schedule and then the Purchaser can then advise M.Brodribb whether it wants to proceed with the variation. The Purchaser acknowledges that any variations it requests will likely increase the price and delay delivery.
- 16. Transfer of Title: Notwithstanding delivery of the equipment to the Purchaser, M. Brodribb retains ownership and title to all equipment until payment for all equipment is received by M. Brodribb in full. Risk is as per DAP (Incoterms).

The Purchaser acknowledges and agrees that until all of the equipment are paid for in full, M.Brodribb has a purchase money security interest in all of the equipment under the Personal Property Securities Act 2009, and that security interest may be registered on the Personal Property Securities Register by M. Brodribb.