

TERMS AND CONDITIONS OF SALE • CROWLEY ENGINEERING

1. Every endeavour is made to meet the wishes of the customer but delivery on a specific date cannot be guaranteed. In the event of the Manufacturers or suppliers of the goods ceased to make or supply any of the goods specified (whether estimated time of delivery has arrived or not) or should Tim Crowley Ltd. trading as Crowley Engineering (hereinafter called the "Company") be delayed in or prevented from making delivery due to strikes, lockouts, trade disputes or difficulty in obtaining workmen or material breakdown of machinery, accident, fire or any circumstances outside of the Company's control the Company shall be at liberty to declare the contract to be at an end and return any deposit, or to defer delivery of the goods, without incurring liability for any loss or damage to the Buyer.

2. (i) In the event of the price being increased after placement of the order by the Buyer, the price ruling at time of actual delivery shall apply. The Company shall immediately notify the buyer of any predicted increase.
- (ii) In the case of goods imported by the Company the rate of exchange between Irish Currency and the currency from which the goods are imported, shall be the rate ruling at the time of delivery, PROVIDED ALWAYS that if the rate ruling at the time of delivery is less favourable to the Company than that ruling at the date of importation, the rate more favourable to the Company shall apply.

3. Illustrations, photographs, sketches and descriptions whether pictorial or verbal and whether produced by the company or by the Manufacturers, Suppliers or any other person are intended as a general guide only And must not be taken as binding in detail.

4. Second hand machinery, equipment and parts are sold in their existing condition, subject to any defects present at the time of sale without condition as to quality or any warranty expressed or implied. The Buyer must have the goods inspected and must satisfy himself as to the condition of the goods. The Buyer shall sign a suitable acknowledgement as to the condition of the goods at the time of purchase. The Buyer shall indemnify the Company against all claims in respect of such goods and shall personally arrange for the collection of the goods from the Company's premise. Should the Buyer require that the Company should install any such second hand goods then such installation shall be by way of separate agreement and shall not form part of the contract for the sale of the goods.

5. It shall be the duty of the Buyer before using the goods for any purpose of before parting with any possession of the same, to examine and test the goods in every respect, and to satisfy himself as to their fitness for any purpose for which they are intended to be used.

6. Any goods returned by the Buyer to the Company and accepted by the Company for resale, shall be subject to a handling charge of 15 per cent of the sale price of the goods so returned and the said charge shall be paid by the Buyer to the Company when the goods are so returned by the Buyer.

7. Where any tax or levy is imposed by the Government or any other Authority under statute, Statutory Order or instrument on any goods sold by the Company to the Buyer, such tax or levy shall be paid by the Buyer to the Company as an addition to the sale price unless specifically quoted by the Company in the cost price of the goods.

8. The Company shall have no liability of any kind whatsoever to the Buyer in respect of any loss or damage (whether direct, indirect or consequential) suffered by the Buyer whether for loss or damage to property or for death or bodily injury or otherwise howsoever in respect of any goods supplied or work done by the Company. The Buyer shall indemnify the Company against any claim made against the Company by a third party arising out of any goods supplied to or works done for the Buyer.

9. The title to the goods shall not pass to the Buyer until such time as they have been paid for in full. Until the date of payment the Buyer, if the Company so desires is required to store this material in such a way that it is clearly the property of the Company and kept in the same condition in which it was supplied. The Company and the Buyer agree that if the Buyer should make a new object or new objects from the goods or mix the goods with another object or other objects, or if the goods in any way whatsoever become constituent of another object or objects the Company will be given the ownership of this new object or these objects as surety of the full payment of what the Buyer owes to the Company. To this end the Company and the Buyer now agree that the ownership of the article or articles in question, whether finished or not, is to be transferred to the Company, and that the transfer of ownership will be considered to have taken place through and at the moment of the single operation or event by which the goods are converted to a new object or new objects or are mixed with or become a constituent of another object or objects. Until the moment of full payment of whatever the Buyer owes the Company the Buyer shall keep the object or objects in question for the Company in his capacity of owner, and if required shall store this object or these objects in such a way that if it or they can be recognised as such. Nevertheless the Buyer will be entitled to sell these objects to a third party within the framework of the normal carrying on of his business and to deliver them on condition, if the company so required, that the Buyer, as long as he has not fully discharged his debt to the Company, shall hand over to the Company the claims he has against the Buyer emanating from this transaction. The Buyer acknowledges and accepts this reservation of title by the Company. The Buyer accepts and understands that the Company shall be entitled, in the event of non-payment of any part of the purchase price, to enter upon the Buyer's premises with its servants or agents, equipment and means of carriage for the purpose of recovering all of the goods supplied by the Company. Should the Buyer suffer any consequential loss or damage to any other equipment or plant, the property of the Buyer then the Buyer accepts that any such loss or damage will not be the liability of the Company.

10. The specification and design of the goods including the copy right, design right or other intellectual property in them shall as between the parties be the property of the Company. Where any design or specifications have been supplied by the Buyer for manufacture by or to the order of the Company, then the Buyer warrants that the use of those designs or specifications for the manufacture, processing or assembly, or supply of the goods do not infringe the rights of any third party.

11. The goods shall be delivered to the Buyer at the Companies address. The risk and the goods shall pass to the Buyer upon such delivery taking place. The Company shall arrange for the carriage of the goods to the Buyer's address. The cost of the carriage and any insurance which the Buyer reasonably directs the Company to incur, shall be reimbursed by the Buyer and shall be due on the date of the payment of the price. The Carrier shall be deemed to be the Buyer's agent.

12. If the Buyer fails to make payment for the goods in accordance with his contract for sale or commits any other breach of this contract of sale, or if any distress or execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangements with his creditors or commit an act of bankruptcy or if any petition in bankruptcy is presented against the Buyer, where the Buyer is unable to pay its debts as they fall due or if being a limited company, any resolution or petition to wind up the Buyer shall be passed or presented or if a Receiver, Administrator, manager or Liquidator shall be appointed over the whole or part of the Buyer's business or assets or if the Buyer shall suffer any analogous proceedings under foreign law, all sums outstanding in respect of the goods shall become payable immediately. The Company may in its absolute discretion and without prejudice to any other right which it may have,

- (a) Suspend all future delivery of goods to the Buyer and/or terminate the contract without liability upon its part, and/or
- (b) Exercise any of its rights pursuant to clause 9.

13. The Company may license or sub contract all or any part of its rights and obligations under this contract with the Buyer's consent.

14. The Company may cancel this contract at any time before the goods are delivered by giving written notice. On giving such notice the Company shall promptly repay the buyer any sums paid in respect of the price. The Company shall not be liable for any loss or damage whatever arising from such cancellation.

15. Should the Buyer during the course of its relationship with the Company entice any of the companies employees, be they tradesmen or servicemen or any other employees of the Company to work for the Buyer within 12 months of the relationship having commenced and/or having ceased, then the Buyer shall pay to the Company a sum of money or commission equal to 10 per cent of the gross salary of any employee of the Company. For the purposes of this condition such employment of any company's employees by the Buyer shall be regarded as a benefit to the Buyer.

16. MANNER OF PAYMENT

The Buyer shall pay a deposit of 25 per cent of the total purchase price on making the order for the goods. Should the contract comprise simply the delivery of goods by the Company to the Buyer without the necessity of any subsequent installation work being carried out by the Company then the entire balance of the purchase price shall be paid on delivery of the goods to the Buyer by the Company. Should the contract comprise the erection and installation of the goods by the Company then 40 per cent of the purchase price shall be paid by the Buyer on the delivery of the goods by the Company to the Buyer's premises. A further 25 per cent of the purchase price shall be paid by the Buyer on completion of all installation works. The final 10 per cent of the purchase price shall be paid by the Buyer 30 days after completion of the installation. Should the final sum not be paid on time, the Buyer recognises that it shall be open and exposed to the immediate exercise by the Company of its reservation of title in respect of all the goods delivered and installed by the Company.

17. The Company shall be entitled to charge the Buyer interest at the rate of 2% per month on any outstanding balance due by the Buyer to the Company. All sums due by the Buyer to the Company shall be regarded as overdue if not paid within 30 days of end of the month during which the debt was incurred. The Company shall notify the Buyer of its intention to charge interest in accordance with this condition, and the Company shall warn the Buyer from what date interest shall become chargeable. At that stage the Buyer shall be liable and hereby accepts that he will be liable and he acknowledges his obligation to discharge the interest when calculated on the overdue amount.

18. ARBITRATION

In the event of any dispute arising between the Buyer and the Company resulting from any transaction between them and which concerns these terms and conditions of trade, then it is hereby agreed between the Company and Buyer that any such dispute shall be referred to arbitration. Both the Company and the Buyer hereby accept that each of them will abide by any decision which shall be made by the Arbitrator. Should the parties not be able to agree on any single Arbitrator then, the President of the Construction Industry Federation shall be requested to nominate an Arbitrator to hear the claim. The standard rules of arbitration ruling in Ireland for the time being shall apply. For an avoidance of doubt, the laws of the Republic of Ireland applies to these terms and conditions.

19. The Buyer hereby acknowledges that he, or if a Company, its representative has read these conditions, understands them and accepts them in full.