

**CLEAN SURFACE LIMITED**

**1. Introductory**

1.1 In these Conditions "the Company" means Clean Surface Limited and "the Customer" means any person, firm or body corporate buying hiring or offering to buy or hire goods or services from the Company.

1.2 These Conditions apply to the sale or hire or offer of sale or hire by the Company of any goods or services whatsoever including services by way of expression of opinion or giving of advice.

1.3 Any additional Conditions applied by the Company to the hire of goods will form part of these Conditions.

1.4 The terms upon which the Company is willing to sell or hire goods and services are contained in these Conditions and any additional Conditions to the exclusion of all other terms, conditions, warranties and representations, including in particular any specified by the Customer in any way. No addition to or variation of these Conditions shall be binding unless accepted in writing by a Director of the Company. In the case of any conflict between any specifically agreed terms and any of these Conditions the former will prevail.

1.5 The Customer's attention is particularly drawn to Conditions 6 and 8 which exclude or limit the Company's liability.

**2. Acceptance and Performance of Orders**

2.1 The Company's price lists, estimates and quotations do not constitute offers made by the Company and in any event the Company may, at its absolute discretion refuse to accept any order if the Company for any reasons whatsoever so determines.

2.2 Contractual obligations will arise only on written acceptance of orders or instructions or by the despatch of goods by the Company.

2.3 The Company may suspend or cancel delivery or performance of any order accepted if the Customer or any person firm or company associated with the Customer is in breach of any contractual obligation to the Company or if the Customer makes any arrangement with or compounds with its creditors, has a receiver, administrative receiver or similar officer appointed, passes a resolution for, has a petition presented for or enters into administration or liquidation, commits an act of bankruptcy, ceases or threatens to cease trading, is or is deemed pursuant to any of the provisions of the Insolvency Act 1986 unable to pay its debts or (where the Customer is an individual) dies or if distress or execution or other process is

levied or enforced upon any of the Customer's assets.

2.4 The Company reserves the right to alter or improve the specification at any time prior to delivery of the goods.

**3. Price and Payment**

3.1 All prices are unless otherwise stated net of all import charges, customs duties, value added tax and similar levies.

3.2 Any price quoted or agreed may be varied by the Company on reasonable notice to take account of increases in costs including (without limitation) the cost of materials, labour, manufacture and carriage, additional customs duties and taxes, exchange rate variations and additional costs incurred as a result of any act or instructions of the Customer. The customer may cancel its order by notice to the Company within 7 days of notification of any such price variation, subject to agreement on payment for any work already carried out.

3.3 Payment shall be made, unless otherwise agreed, in Sterling such that the full amount due, without deduction or set off whatsoever, reaches the nominated account of the Company within 30 days of the invoice date. Payments on account and or/in advance shall reach the nominated account of the Company within 7 days of the demand. Alternative terms of payment can only be agreed with a Director of the Company. Time for payment is of the essence.

3.4 On late payment the Company may charge interest on a daily basis, before as well as after any judgement and until receipt by the Company in full, at 3% above the then current base rate of National Westminster Bank plc (or, in its absence, a reasonable equivalent), compounded monthly, which the Customer shall pay on demand.

3.5 If any part of any invoice delivered by the Company to the Customer is disputed in good faith by the Customer then within 7 days of issue of such invoice (or such other period as the Company may agree in writing), the Customer shall:

3.5.1 advise the Company in writing of details of the disputed element of the invoice;

3.5.2 pay the undisputed part of the invoice in accordance with the terms of these Conditions; and

3.5.3 deposit the disputed part of the invoice with the Company's bankers in a designated escrow account to be released (together with interest earned thereon) to the Customer or the Company or both whoever is or are subsequently found to be entitled to such monies.

Failure of the Customer to comply with the provisions of the Conditions in relation to

any invoice of the Company will be deemed as acceptance of the correctness of such invoice by the Customer.

**4. Delivery**

4.1 Prices, unless otherwise stated or agreed, are ex works and do not include any licences, certificates, permits, packing or delivery at any place other than the Company's premises, for which items the Company may make reasonable charge.

4.2 The Company may make a reasonable charge for storing any goods which the Customer fails to collect within 7 days notice from the Company that they are ready for collection. In the event of failure to collect within 30 days of such notice the Company may deal with or dispose of them as it may determine and retain so much of any proceeds as is equal to or less than any amount owing by the Customer, provided that any excess shall be paid to the Customer.

4.3 Goods included in each delivery shall be deemed to be sold under separate contract. Neither any non delivery nor any shortage in delivery nor any claim by the Customer in respect of any delivery shall entitle the Customer to reject any balance of goods or services ordered.

4.4 The Company shall use its best endeavours to deliver within the given period but any given delivery or completion date is only the Company's best estimate and not a contractual commitment.

4.5 Risk in goods sold shall pass the customer on delivery at the Company's premises to the Customer or its agent or the carrier or, if earlier, the expiring of the Company's 7 day notice that the goods are ready for collection.

**5. Passing of Property**

5.1 No property or title in any goods shall pass to the Customer until their price has been received in full by the Company by payment in cash. The Company shall remain the legal and equitable owner of the goods and the Customer shall be bailee of such goods for the Company until such receipt and shall keep them separately so that they are identifiable as the Company's property.

5.2 If the Customer fails to pay the price for the goods when due, makes any arrangement with or compounds with its creditors, has a receiver, administrative receiver or similar officer appointed, passes a resolution for, has a petition presented for or enters into administration or liquidation, commits an act of bankruptcy, ceases or threatens to cease trading, is or is deemed pursuant to any of the provisions of the Insolvency Act 1986 unable to pay its debts or (where the Customer is an individual) dies or if

distress or execution or other process is levied or enforced upon any of the Customer's assets, the Company may (at the Customer's cost) recover any goods which have not become the Customer's property and may enter any premises of the Customer for such purposes, and the Customer shall be considered to be no longer in possession of such goods with the Company's consent.

5.3 The Company may recover from the Customer by way of an action for debt any sum due to the Company in respect of goods, whether or not property in the goods has passed.

5.4 While the Customer is in possession of goods with the Company's consent the Customer may resell and deal in them in the normal course of its business although property in them has not passed.

5.5 In any resale of goods before property has passed the Customer shall act as principal and in a fiduciary capacity for the Company and shall hold so much of the resale proceeds as is necessary to discharge the Customer's indebtedness to the Company in trust for the Company. If the Customer fails within a reasonable period after such resale to receive the price, the Customer will, on demand, assign to the Company its claims against the purchaser and notify the Company, at its request, of the name of any such third parties and of the amount of their debt to the Customer.

5.6 Nothing in these Conditions shall entitle the Customer to return any goods or refuse or delay payment, or shall effect the passing of risk as provided in Condition 4.5.

## **6. Warranties, Limitation or Liability and Indemnity**

6.1 All finished equipment or parts thereof not classified as "Spares" supplied by the Company are guaranteed against faults of manufacture for a period of 12 Months from the date of delivery on the assumed basis that use will not exceed one 8 hour shift per day. The guarantee period reduces pro rata for longer periods of daily use. All warranties and guarantees are invalid if the equipment is not operated in accordance with the Company's setting-up, operating and maintenance instructions or if the equipment is modified in any way for any reason without the Company's explicit permission being given in writing.

6.2 Components supplied and designated as "Spares" generally sourced from third parties are guaranteed only by the warranties given by the third parties to the Company. The terms of such warranties will be advised to the Customer only if specifically requested. Spares not of third party origin will be replaced free of charge if proven faulty within 6 Months from the date of supply.

6.3 If the Customer establishes to the Company's reasonable satisfaction within one month of the date of completion of

the services in question that there was faulty workmanship in any services provided by the Company expression of opinion or giving of advice by the Company or that there was a material error in any expression of fact of which the Company should have been aware with the exercise of due diligence, the Company shall credit the Customer with the price paid in respect of such opinion or advice.

6.4 Subject as otherwise expressly provided in these Conditions and provided that nothing herein shall restrict the Company's liability for personal injury resulting from the negligence of the Company, its employees or agents or the Company's liability under Part 1 of the Consumer Protection Act 1987, the Company shall not be liable to the Customer in any manner whatsoever (whether in the law of contract, tort or otherwise) for any loss, damage or injury, whether direct, indirect, economic, consequential or of any other kind whatsoever, howsoever arising out of or in connection with the supply of any goods or services or the expression of any opinion or giving of any advice by the Company or its employees or agents, unless and to the extent that any loss, damage or injury was caused by the wilful misconduct of the Company in which case the Company shall be liable for proven damage for material or physical loss or damage so caused insofar as such loss or damage is/are covered by the Company's insurance but, in any event the Company will not be liable for any consequential or financial loss or indirect loss or damage.

6.5 In no event shall the Company's liability to the goods or services exceed an absolute maximum of the price paid by the Customer for the goods or services.

6.6 The Customer will indemnify and keep indemnified the Company against any loss, damage, costs, claims and expenses incurred by the Company in respect of any liability to third parties howsoever arising out of or in connection with any goods or services supplied by the Company or any goods given by the Customer into custody of the Company or any breach by the Customer of any of these Conditions.

## **7. Force Majeure**

7.1 The Company shall not be liable for any delay or failure in carrying out its obligations if and to the extent that it is unable wholly or partly to carry out any of its obligations as a result of any circumstances or event beyond its reasonable control including (without limitation) strike, lockout, trade dispute, labour disturbance, difficulty in obtaining labour, materials or transport, the act or omission of a third party, Government action, refusal of licence, act of God, war, explosion, fire, flood, storm, nuclear disaster, breakdown of machinery and power failure.

7.2 If the Company cannot complete any services for any such reason as is

mentioned in Condition 7.1 it shall be entitled to be paid in proportion to the amount of work done.

7.3 The Company shall as soon as reasonably practicable give the Customer notice of any such event as mentioned in Condition 7.1 which causes the Company to delay or fail in the performance of its obligations.

## **8. General**

8.1 All notices and other communications in connection with any agreement between the Customer and the Company shall be in writing and either delivered by hand or sent by telex, fax, e-mail or first class post, in the case of the Company to such address as it may have notified for such purposes or, in the absence of such notification, to its registered office, and in the case of the Customer to its address last known to the Company. Notices shall be considered served upon delivery in the case of delivery by hand, sending in the case of correct transmission by telex, fax or e-mail and 48 hours after posting in the case of post.

8.2 The Company may sub contract or assign to any person any of its obligations or benefits but the Customer may not sub contract or assign any of its obligations or benefits.

8.3 The rights of the Company shall not be prejudiced or restricted by any indulgence or forbearance extended to the Customer or by any delay in exercising or failure to exercise any right and no waiver by the Company of any breach shall operate as a waiver of any other or further breach.

8.4 All the Company's rights shall be cumulative and not alternative or exclusive of each other or any implied by law.

8.5 Headings are given for convenience only and shall not affect interpretation.

8.6 Any of these Conditions or any part thereof considered by any court or other competent authority to be unenforceable shall be considered severable so as not in any way to affect the remainder of these conditions.

8.7 These Conditions and any agreement between the Customer and the Company to which these Conditions apply shall be governed by and construed in accordance with English Law. The parties agree that the English Courts shall have exclusive jurisdiction to adjudicate any dispute which arises in connection with these conditions or any agreement as aforesaid save that, as such agreement conferring jurisdiction is for the benefit of the Company only, the Company shall retain the right to bring proceedings against the Customer in any other court which has jurisdiction.

Revised January 2007: CSL Terms 2007