

DRAGON ENERGY FROM WASTE

Terms and Conditions of Business - Sale of Goods - Jan 2005

1.0 All contracts which Dragon Heaters (hereinafter called 'Dragon') shall enter into are subject to these Terms and Conditions, and it is hereby expressly agreed by the Customer (which expression shall include any individual firm, company or other party with whom Dragon contracts) that the Customers contractual Conditions, if any, are excluded in their entirety and no variation in these Conditions will be accepted by Dragon unless agreed, in writing by the Proprietor of the Firm.

1.1 Any quotation by Dragon is only an invitation to the Customer to treat and no Order of the Customer placed with Dragon in pursuance of the quotation shall be binding on the Firm unless and until accepted in writing by Dragon.

1.2 Unless otherwise stated on the quotation all quotations by Dragon will only be valid for thirty days from the date thereof.

1.3 If verbal orders or instructions are given to Dragon in advance of, or instead of a written order, responsibility for errors or inaccuracies will rest with the Customer

2.0 PRICE

The price payable shall be as follows

2.0.1 The price shall be deemed to be Dragon's price prevailing at the date of dispatch of the goods to the Customer unless otherwise agreed by Dragon in writing

2.0.2 In all cases and unless otherwise agreed in writing the price shall be deemed to be exclusive of Value Added Tax which shall be payable in addition by the Customer at the rate prevailing at the tax point and exclusive of packaging.

2.0.3 Dragon reserve the right to correct, and will not be bound by, any clerical or mathematical error in any quotation, invoice, leaflet, catalogue, invoice or statement of account issued by it.

3.0 TERMS OF PAYMENT

The terms of payment are as follows. On acceptance of the quotation, a deposit of 20% of the total invoice including VAT will be due. A following 60% is due a week prior to delivery (to qualify for any discounts given) and the remainder within 14 days of delivery. Any outstanding amount remaining unpaid after the 14 days will incur interest at the rate of 2% per month (part months counting as a whole month) and shall be added to the balance due from the Customer to Dragon.

4.0 DELIVERIES AND TRANSPORT

Prices are ex works and unless otherwise agreed in writing, Dragon reserves the right to charge the customer the cost of transporting the goods to the destination, which appears on the Customer's order. In all cases the Customer warrants that in cases where delivery is to be made by road transport sufficient and suitable access to the said destination including a road surface capable of withstanding the weight and size of the transport and load involved is available. The Customer is responsible for off loading the goods and avoiding undue delay. In the event of any additional costs or expenses being incurred by Dragon the Customer will pay the full amount thereof on demand.

4.1 The Customer will be advised when goods have been dispatched and if they are not received Dragon must be notified in writing within seven days of this advice of dispatch.

4.2 Whilst every effort is made to deliver on the dates or within the periods mentioned in the contract such dates or periods shall be deemed to be for information purposes only and shall not form part of the terms and conditions of the contract unless specifically agreed in writing to be "of the essence of the Contract" and in the absence of such special agreement Dragon accepts no liability whatever for any loss or damage of whatsoever nature and howsoever arising which may be suffered by the Customer as a result of any failure on the part of Dragon to deliver goods on or within the dates or periods mentioned in the Contract.

4.3 If the Customer is to collect the goods from the premises of Dragon, or its agent, the goods shall be collected within seven days of the Customer being notified that they are ready for collection, and thereafter Dragon reserves the right to issue the invoice and make a storage charge

5.0 RISKS AND TITLE TO GOODS

The risk in the goods passes to the Customer upon delivery (or collection) but title in the goods remains vested in Dragon and shall only pass from Dragon to the Customer upon full payment being made by the Customer of all sums (due on whatsoever account or grounds) to Dragon by the Customer. In the event of the goods being sold by the Customer in such a manner as to pass to a third party a valid title to the goods, whilst any sums are due as aforesaid, Dragon's rights under the Conditions shall attach to the proceeds of such sale or to the claim for such proceeds and the Customer shall place such proceeds in a separate account. Nothing herein shall constitute the Customer the agent of Dragon for the purposes of any sub-sale

5.1 The Customer agrees that prior to the payment of the whole price of the goods Dragon may at any time enter upon the Customers premises and remove the goods therefrom and that prior to such payment the Customer shall keep such goods and identifiable for this purpose

6.0 DEFECTS AND REPLACEMENT

Any guarantee given or implied by Dragon is invalid if any part of the installation, including the chimney and plumbing, is deemed by Dragon to be unsuitable. Dragon will at its own cost and expense repair and/or replace at its discretion the whole or any part of the goods forming the subject of the Contract which are defective in quality or fail to comply with any specification laid down in the contract subject however to the following conditions

6.0.1 In the event of any matter giving rise to complaint, which would be apparent to the Customer on reasonable inspection the Customer, must give written notice thereof to Dragon within three days from the date of delivery of the goods.

6.0.2 In the event of a complaint in respect of a matter not apparent on reasonable inspection, the Customer must give notice thereof to Dragon within three days of the defect complained of coming to the attention of the Customer and/or its servants or agents but in any event notice of complaint must be given to Dragon by the Customer within two years of delivery of the goods

11.1.1 Dragon will repair or replace free of charge any goods which are found to be defective through faulty workmanship or materials provided notice is given in accordance with Clauses 6.0.1 and 6.0.2 above, provided such defect is not due, wholly or in part, to lack of care, overloading, incorrect treatment or alteration by the Customer or any other circumstances beyond the Firms control including but not limited to problems arising as a result of ancillary works carried out by the Customer or others instructed by the customer.

- 11.1.1 The warranty contained in clause 6.0.3 does not apply to and Dragon accept no liability in respect of defects in used materials or used goods supplied, but not manufactured by Dragon which are covered by their manufacturer's own guarantee.
- 11.1.2** In all cases Dragon shall be given a reasonable opportunity following notice of complaint of examining the relevant goods.
- 11.1.3** The warranty contained in 6.0.3 shall not become effective until paid in full
- 11.1.4** In the event of damage occurring to the goods in transit, the customer must give written notice to Dragon within three days of the date of delivery to the destination named in the contract and further where such goods are consigned to an outside carrier the customer must in addition comply in all respects with the carriers conditions of carriage for notification of or loss or damage in transit.
- 11.2 Save as mentioned in Clause 6.0 above, Dragon shall be under no liability whatsoever whether contractual, tortuous or statutory for any defect of quality, shortfall in quantity, breach of specification or stress grading or any other matter in relation to goods supplied or for any consequential damage, injury, loss or expense (including but not limited to loss of profit) howsoever caused thereby incurred by the Customer or any other person, firm or corporation and whether arising directly or indirectly from any matter complained of in relation to the goods.
- 11.3** Any condition, warranty or statement as to the quality of the goods or their fitness for any purpose whether express or implied by statute, trade, customer otherwise is deemed excluded unless expressly accepted in writing by Dragon.
- 7.0n Information supplied by Dragon will not form part of this contract unless specifically confirmed by a partner in Dragon to a customer in writing.
8. Quotations or offers of goods delivered to site are made by Dragon in the basis that the customer shall unload the goods and shall be entirely responsible for making all arrangements in connection therewith. Unless stated to the contrary, Dragon reserves the rights to make additional charge for any unreasonable delay in the customer unloading the goods or, if the customer declines to unload the goods, for any expenses incurred by Dragon itself making arrangements for unloading.
- 11** Dragon reserves the right at any time, without prior notification, to make any alterations in the facts or information contained in any specification, drawing or leaflet Drawings and specifications produced by Dragon shall at all times remain the property of Dragon.
- 10.0** The customer must satisfy themselves that the goods can be installed and used in the in the area in question without causing nuisance or annoyance to adjoining occupiers or infringing Local or Public Statutes, Regulations or by-laws as Dragon gives no warranties and accepts no responsibility with regard to this.

11.1 DETERMINATION AND DAMAGES

Without prejudice to its rights Dragon may determine the contract or suspend any further deliveries to the customer in event of :-

- 11.1 any distress, execution or other legal proceedings being levied on the customers assets.
- 11.2 The customer entering any arrangement or comotation with creditors committing any act of bankruptcy or being a firm entering into liquidation or having a Winding up petition presented against it calling a meeting of all creditors, suffering the appointment of receiver in respect of the whole or any part of its undertakings or assets.
- 11.1.1 Non payment by the customer of any monies due from it to Dragonheat
- 11.2 In the event of a determination by Dragon of the Contract in accordance with Clause 11.0.1 or 11.0.3 above or any cancellation and/or repudiation of the Contract by the customer, Dragon shall be entitled to recover damages as follows.
- 11.1.1 The value of any work completed or goods manufactured at the date of the determination.
- 11.1.2 The value of any work begun or goods begun to be manufactured at the date of the determination.
- 11.1.3 The value of any work begun or goods begun to be manufactured but not completed at the date of determination including the cast of materials, labour, overheads and profit connection therewith.
- 11.1.4 A sum representing any further profit which Dragon would have made on the contract but for its determination such profits to be determined by Dragons auditors whose decision shall be conclusive and binding on the Customer.

12 SET OFF

The Customer shall not be entitled to with-hold or set-off payment of any amount due to Dragon under the terms of the Contract whether in respect of faulty or defective goods or for any other reason which is contested or liability for which is nor admitted by Dragon.

- 12 In the case of equipment or goods supplied to the Customers own design it shall be implied term or condition of the order that the Customer warrants the carrying out of such designs does not infringe any patents or rights of third parties, and the Customer shall indemnify Dragon in respect of any damages, costs or liability incurred by Dragon with regard to any proceeds brought against Dragon by any person, firm or corporation claiming patent rights manufactured to a Customers order.

13 FORCE MAJEURE CLAUSE

In the event of war, invasion, act of foreign enemy hostilities (whether war has been declared or not) civil rebellion, insurrection or military or usurped the extent of which the fulfillments of such obligations is prevented or frustrated or impeded as a consequence of any such event, or by any statute, rules, requisitions order or requisitions ordered by any government department, council or other duly constituted authority or from strikes, lockouts, breakdowns of plant or any other cause (whether or not of a like nature) beyond Dragon's control.

15.0This contract is governed by English Law and is subject to the exclusive jurisdiction of the English Courts. All proceedings in relation to this contract must be issued out of and proceed in the Boston County Court or the Boston County Registry of the High Court