

# Stapletons Lock & Safe

## Terms and Conditions of Business

### A. DEFINITIONS

In this contract the following terms shall have the following meaning:

1. "Seller" shall mean Stapletons Lock & Safe Limited (Company Registration Number: 06549246) whose registered office is at Lloyds Chambers 139 Carlton Road Worksop Nottinghamshire S81 7AD
2. "Buyer" shall mean the name of the person, company or firm (as set out overleaf as "customer name") who is the customer of the Seller.
3. "Goods" shall mean all goods and services forming the subject of this contract, including parts and components of or materials incorporated in them.
4. "Contract" means any agreement for the sale of goods or provision of the specified service by the Seller to the Buyer.
5. "Price" means the total cost of the Goods and/or Specified Services provided including VAT, which is to be paid by the Buyer to the Seller
6. "Specified Service" means the service to be provided by the Seller to the Buyer.
7. The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.

### B. APPLICATION OF TERMS AND CONDITIONS

These Terms and Conditions shall apply to all contracts for the sale of goods and supply of services between the Seller and the Buyer notwithstanding and to the exclusion of any terms or conditions which the Buyer may purport to incorporate under any purchase order, letter of order, confirmation of order or similar document.

Any and all future orders shall be deemed to be offers by the Buyer to purchase the goods or services pursuant to these Terms and Conditions unless the Seller shall amend these Terms and Conditions or notify the Buyer to the contrary.

Any variation to these Terms and Conditions may only be made by writing by the Seller and unless so made shall have no effect.

A person who is not a party to the contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term or condition of the contract but this shall not affect any right or remedy of a third party which exists or is available apart from that Act.

### C. DESCRIPTION

Any description given or applied to these Goods has been given by way of identification only and the use of such description shall not constitute a sale by description. For the avoidance of doubt, the Buyer hereby affirms that he/she/it did not in any way rely on any description when entering into the Contract.

### D. RELATIONSHIP OF PARTIES

Nothing in these Terms and Conditions shall be construed as establishing or implying any partnership or joint venture between the parties, and nothing in these Terms and Conditions shall be deemed to constitute either of the parties as the agents of the other or authorise either party:

- a) to incur any expense on behalf of the other party;
- b) to enter into any engagement or make any representation or warranty on behalf of the other party;
- c) to pledge the credit of, or otherwise bind or oblige the other party;
- d) to commit to the other party in a way whatsoever, without in each case obtaining the other party's prior written consent.

### E. BASIS OF SALE

1. The Seller shall sell and the Buyer shall purchase the Goods in accordance with the Seller's written quotation (if accepted by the Buyer), or the Buyer's written order (if accepted by the Seller), subject in either case to these Terms and Conditions, which shall govern the Contract to the exclusion of any other Terms subject to which any such quotation is accepted or purported to be accepted, or any such other is made or purported to be made by the Buyer. Further and/or in the alternative the Seller shall provide the specified service to the Buyer subject to these Terms and Conditions.

2. The Buyer must when the information become available, state the date, reference and any address for delivery.

### F. DELIVERY

1. The Seller will deliver the Goods, subject to carriage charges, within the United Kingdom by such method or carriage as the Seller may choose.
2. The Buyer shall make all necessary arrangements to take possession or receive installation of the Goods on the delivery or installation date(s) and at the place of delivery or installation.
3. The time for delivery or installation shall not be of the essence. The Seller shall endeavour to deliver the Goods or perform the installation within 28 days of the making of this Contract, but delivery time cannot be guaranteed.
4. The Buyer will be bound to take delivery or installation of the Goods in accordance with clause 2 notwithstanding that the Seller delivers the goods after the delivery or installation date provided that the Seller gives the Buyer 24 hours notice of such delay.

### G. EXCLUSION AND LIMITATION

1. Unless the Buyer deals as a consumer within the meaning of section 12 of the Unfair Contract Terms Act 1977 then all warranties, terms or conditions which provide that the Goods will match any particular description, fitness for purpose or quality, whether implied by common law or statute shall be excluded from this contract.
2. The Seller shall be under no liability to the Buyer for indirect or consequential loss (including loss of profits and loss of goodwill) sustained by the Buyer following breach of this contract by the Seller
3. In any event, the Seller's liability to the Buyer arising out of any breach by the Seller of this contract shall be limited to damages and such damages shall under no circumstances exceed the Price.
4. Should the Buyer instruct the Seller to provide Specified Service when the Buyer does not have the necessary authority to issue such instructions or a third party challenges the authority of the Buyer to issue such instructions then the Buyer shall fully indemnify the Seller against all liabilities damages and costs that arise in such circumstances.

### H. PAYMENT

1. Payment for the Goods is due on delivery of the Goods or on completion of the installation, payment is to be made by either cash or cheque or debit card or BACS. If an invoice has been left with the Buyer then payment can be given to the Seller's installation engineer prior to the engineer's departure from the Buyer's site. If the Buyer is an account customer then payment is due 30 days after delivery of the Goods or on completion of the installation.
2. The time for payment of the Goods and/or Specific Service shall be of the essence.
3. In the event that the Buyer fails to make payment in accordance with clauses 1 and 2 the Buyer shall pay interest on and any all sums outstanding at the rate of 5% per annum above the Bank of England's base rate, accruing daily.
4. Further, if payment for the Goods and/or Specified Service or any part thereof is not made by the due date then without prejudice to the foregoing, the Seller shall also be entitled to:
  - i) require payment in advance of delivery in relation to any Goods not previously delivered;
  - ii) refuse to make delivery of any undelivered Goods whether ordered under the Contract or not and without incurring any liability whatever to the Buyer for non delivery or any delay in delivery;
  - iii) terminate the Contract;
  - iv) retain any deposit paid by the Buyer.
5. The Buyer shall not be entitled to make any deductions or withhold payment for any reason at all.
6. Any delay or default by the Buyer in making payment in accordance with clause H shall render all sums owing to the Seller on any account whatsoever including the costs of recovery of such sums, due and payable forthwith without requirement for any notice to be given to the Buyer and interest will be charged in accordance with clause H with immediate effect until the date of actual payment

### I. ACCEPTANCE OF GOODS

The Buyer shall be deemed to have accepted the Goods and Specified Service as if he/she/it had expressly written to the Seller and stated as such if he/she/it fails to notify the Seller in writing that he/she/it does not accept the Goods within three days of delivery of the Goods or completion of the Specified Service.

### J. RISK

The risk in the Goods will pass to the Buyer at the moment the goods are dispatched from the Seller's premises; or installation has taken place. Where the Buyer chooses to collect the Goods himself/herself/itself, the risk will pass when the Goods are entrusted to his/her/its collection, whichever happens first.

### K. PROPERTY

1 Title in the Goods will not pass to the Buyer but shall be retained pending payment in full of the Price. Until such time as title passes to the Buyer, the Seller shall have an absolute authority to re-take, sell or otherwise deal with or dispose of all or any part of the Goods in which title remains vested in them.

2 For the purposes specified above, the Seller or any of their agents, or authorised representative shall be entitled at any reasonable time during normal working hours to enter without notice onto any premises where the Goods or any part of the goods are installed, stored or kept or are reasonably believed to be.

3 The Seller shall also be entitled to seek an injunction to prevent the Buyer from selling, transferring or otherwise disposing of the Goods.

### L. GUARANTEES

1. All Goods are guaranteed by the Seller for a period of 12 months from the date of purchase/installation against faulty materials or workmanship. During this period Goods will be repaired or have parts replaced, at the discretion of the Seller, free of charge, provided that:

- i) The Goods have not been misused or handled carelessly;
  - ii) The Goods have not been repaired or have attempted to be repaired by someone other than the Seller; or
  - iii) The fault has not occurred due to door/window size fluctuation resulting in the need for striking plate adjustment.
2. In the event that Goods are replaced under a manufacturer's guarantee then the Goods shall be provided at no cost to the Buyer but any fitting/installation costs must be met by the Buyer.
  3. Any guarantee on Goods in excess of 12 months is provided by the manufacturer and not the Seller
  4. Proof of purchase must be presented before any claim for repair or replacement under clauses L1 - L3 will be actioned.

### M. FORCE MAJEURE

If delivery of the Goods or performance of the Specified Service is delayed by strikes, lock outs, fire, accidents, defective materials, delays in receipt or raw materials or bought in goods or components or any other cause beyond the reasonable control of the Seller, a reasonable extension of time shall be granted and the Buyer shall pay such reasonable extra charges as shall have been occasioned by the delay. If the delay persists for such time as the Seller considers unreasonable they may, without liability on their part, terminate the Contract.

### N. ASSIGNMENT AND SUB-CONTRACTING

This Contract shall not be assigned or transferred nor the performance of any obligation sub-contracted, in either case by the Buyer, without the prior written consent of the Seller.

### O. DISTANCE SELLING

1. The Seller complies with the provisions of the Consumer Protection (Distance Selling) Regulations 2000 (the Regulations).
2. Where the Regulations apply the Buyer will be able to cancel any Contract within 7 days (cooling off period) of giving instructions to the Seller by informing him in writing at his registered office.
3. Where instructions are given for the Seller to commence work immediately or prior to the expiry of the cooling off period then the Buyer accepts that the services (as defined in the Regulations) have commenced and that the Buyer has forfeited any right to cancel the Contract under the Regulations.
4. The Buyer must meet the Seller's charges for work carried out up to the date that the written cancellation is received by the Seller, limited to the statutory amount specified by the Consumer Protection (Distance Selling) Regulations 2000

### P. SEVERABILITY

If any terms or provisions in this Contract shall be held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such terms or provision or part shall to that extent be deemed not to form any part of these Terms and Conditions but the validity and enforceability of the remainder of these Terms and Conditions shall not be affected.

### Q. WAIVER

The waiver for forbearance or failure by or of a party in insisting in anyone or more instances on the performance of any provision of this Contract shall not be construed in any circumstances as a waiver or abandonment of that party's rights to future performance of such provision and the other party's obligation in respect of such future performance shall continue in full force and effect.

### R. PROPER LAW

This Contract shall be governed by and construed in accordance with English law and each party agrees to submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising under this Contract.

### S. ARBITRATION

Any disputes which arise out of or in connection with this Contract of whatever nature shall, if practicable, be settled by negotiation between the parties. If such disputes are not resolved within 21 days of such negotiations commencing then the matter shall be referred to arbitration, the ruling in such arbitration being binding on the parties. The parties shall agree on the identity of the arbitrator and, in the event of their failure to agree, the arbitrator shall be appointed by Chartered Institute of Arbitrators.

### T. SET OFF

1 All amounts due under this Contract shall be paid in full, without any deduction or withholding other than such as may be required by law, and the party owing such amounts shall not be entitled to assert any credit, set-off or counter claims against the other party in order to justify the withholding of payment of any such amount in whole or in part.

### U. NOTICES

A notice required or permitted to be given by either party to the other under these Terms and 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.

### V. INSOLVENCY OF BUYER

- 1 This clause applies if:
  - i) the Buyer makes a voluntary arrangement with his/her/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
  - ii) an encumbrancer takes possession or a Receiver is appointed, of any of the property or assets of the Buyer; or the Buyer ceases, or threatens to cease to carry on business; or
  - iii) the Buyer ceases, or threatens to cease to carry on business; or
  - iv) the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 2 If this clause applies then, without limiting any other right or remedy available to the Seller, the Seller may cancel the contract or suspend any further deliveries or suspend further performance under the contract without any liability to the Buyer and if the goods have been delivered but not paid for or the specified service provided but not paid for, the price shall become immediately due any payable notwithstanding any previous agreement to the contrary.

### W. SUPERVENING ILLEGALITY

If any term of this contract is held by any court of law or in arbitration to be illegal or unenforceable in whole or in part, such term or part shall to that extent be deemed not to be part of this contract, and the validity of the remainder of the contract shall not be affected.

### X. CONTRACT RIGHTS OF THIRD PARTIES ACT 1999

For the purposes of the Contracts (Rights of Third Parties) Act 1999 this contract is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions