Triplex Industrial Contractors Ltd Terms & Conditions

1. GENERAL

a. In these conditions:
   i. The 'Company' means Triplex Industrial Contractors Ltd (Triplex)
   ii. The 'Buyer' means the individual firm, company or other party with whom the Company contracts

b. Any quotation or estimate made by or on behalf of the Company whether in writing and/or orally is an invitation only to the Buyer for them to make an offer and any order in pursuance of any quotation or estimate shall not be binding upon the Company unless and until such order is accepted by the Company in writing. Any agreement made between the Company and the Buyer whether for the supply of goods or for the work and materials (hereinafter called the 'Contract') shall only be subject to these terms and conditions.

c. Unless otherwise agreed in writing by the Company these conditions shall override any terms and conditions stipulated incorporated or referred to by the Buyer in his order or any other document during pre-contract negotiations.

2. SCOPE OF CONTRACT

The scope of this Contract is confined to the supply of labour, goods and/or materials referred to upon the Company's quotation and/or the execution of civils, surfacing and ancillary work by the Company upon the Buyer's sites and/or premises or as otherwise specified by the Buyer. Situations may arise when the Company and its servants or agents when requested so to do assist the Buyer in obtaining consents and/or designs which may prove necessary for the execution of works which are the subject of this Contract as well as providing information which the Buyer may require when dealing with matters which are ancillary to the Contract such as agreements with other companies, firms or individuals for the supply of other labour, goods and materials. Any such assistance information and/or any advice relevant thereto given by the Company its servants or agents does not form part of this Contract or any contract between the Company and the Buyer. The Company shall not be liable to the Buyer for any claim whatsoever for direct or indirect consequential or incidental loss injury or damage arising out of the giving of such assistance information or advice under any circumstance whatsoever. The Company recommends that the Buyer obtains independent advice from a suitably qualified person in such circumstances.

3. DESIGNS

Where products or materials are supplied to the Buyers own specifications or designs the Buyer warrants and undertakes full responsibility not only for the suitability and fitness of the specifications or designs thereof but also that such specifications or designs do not infringe any hauliers trade mark registered design copyright, Local Authority specification, or any other propriety right and shall indemnify the Company in full for any loss, damage or expense whatsoever which the Company may incur in the performance of the Contract by reason of any such infringement.

4. PRICE

a. The Company shall be entitled to adjust the contract price of the goods or labour, plant and materials whether before or after the making of the Contract in the event of any variation in the cost to the Company of supplying the same or any part thereof caused by:
   i. Any increase in the cost of materials required by the Company for the completion of the Contract
   ii. Any increase in wages and manufacturing costs and other overheads
   iii. Any other reason whatsoever beyond the control of the Company including (but without prejudice to the generality of the foregoing) fluctuation in exchange rates between monetary currencies the action of any government or any other authority or any labour problems.

b. The price set out upon the Company's quotation does not include value added tax, which will be charged at the rate applicable at the date of invoice.

5. DELIVERY AND COMPLETION

Whilst the Company will make every reasonable effort to complete the Contract by the date or dates specified for completion they shall only constitute the times by which the Company expects to effect completion and the Company's failure to deliver or complete by the due date or dates resulting from loss or damage to materials, strikes, lock-outs, disputes, breakdowns, accidents, force-majeure or to any other circumstances beyond the Company's control shall not constitute a breach of Contract and the Company shall not be responsible for any direct or consequential loss resulting there from.

6. TERMS OF PAYMENT

a. In normal circumstances the Company shall be entitled at any time to submit interim applications to the Buyer for progress payments notwithstanding that at the time the application is made the Contract has not been completed. Payment of any sum referred to in any interim application shall be due for payment thirty days after delivery of the application to the Buyer

b. After the Contract has been completed the Company shall be entitled to submit a final application to the Buyer for payment for the value of all materials delivered and work done for which no prior application has been made. Payment of any sum referred to

in the final application shall be due for payment 30 days after its delivery to the Buyer

c. Should the Buyer fail to comply with the terms of payment the Company shall be entitled to charge interest and other associated costs incurred on any amount outstanding after the due date for payment at the rate of eight percent above the base rate of the National Westminster Bank Limited.

7. SUSPENSION AND CANCELLATION

a. If the Buyer shall fail to make any payment when it becomes due or shall commit any other breach of Contract and fail to remedy the same within seven days of receiving the Company's request in writing so to do or shall enter into any composition or arrangement with his creditors or any distress or execution is levied upon any goods or property of the Buyer or if the Buyer commits any act of bankruptcy or if being an incorporated company shall have a receiver appointed of the whole or any part of its undertaking or assets or shall pass a resolution for winding up (except solely for the purpose of amalgamation or reconstruction) or a Court shall make an order to that effect or if not being an incorporated company shall have a receiving order made against it the Company may defer or cancel any further deliveries or work and treat this Contract of which these conditions form part and any other contract between the Company and the Buyer as determined but without prejudice to his right to any unpaid price for goods and materials delivered or cost of work done under the Contract or any other contract and to damages for loss suffered in consequence thereof.

b. If the Buyer requires cancellation of the Contract this will only be accepted at the sole discretion of the Company and unless otherwise agreed in writing only upon condition that any costs charged or expenses (both direct and consequential) incurred by the Company up to the date of cancellation by the Buyer will only be binding upon the Company if such acceptance is made in writing.

c. In the event of the Company being prevented from completing the Contract either wholly or in part in accordance with the terms thereof for any reason whatsoever beyond its reasonable control then further performance of the Contract shall be suspended for the period during which the Company is so prevented provided that in the event of the Contract being suspended for a continuous period of more than four months then either party may give the other notice in writing to terminate the Contract forthwith and in such circumstances the Buyer shall pay for all the goods, labour and materials supplied and work completed to the date of such termination such payment to be made on or before the last day of the month following the month during which termination was effected. The Company shall be under no liability whatsoever to the Buyer for any direct or consequential loss or damage suffered by the Buyer as a result of the Company's liability to perform its obligations under the Contract in these circumstances.

8. WARRANTY / DEFECT PERIOD

a. The Company's liability in respect of any defect in or failure of goods supplied or work completed or for any loss, injury or damage attributable thereto is limited to making good by replacement or repair (at its option) defects or failures which under proper use or conditions appear therein and arise solely from the faulty materials or workmanship for which the Company is responsible; within a period of twenty four calendar months after the work has been completed. It shall be a condition precedent to the Company's liability under this warranty that immediate notice in writing of the defect is given to the Company and the Buyer gives the Company authority for it servants and agents to inspect the same. Thereafter the Company shall be given a reasonable period in which to complete the necessary repair or deliver the replacement

b. The Company's liability under the warranty shall automatically cease if

   i. The Buyer shall not have paid for all goods and/or labour, plant and materials supplied and work done by the due date (whether under the Contract or any other contract between the Company and the Buyer) referred to in paragraph 6 of these conditions.

   ii. The Company's servants and agents are denied full and free right of access to the defective goods or materials or work done.

   iii. The Buyer permits persons other then the Company's servants or agents to effect or attempt any repair or replacement of defective goods, materials or work done.

c. The warranty set out in paragraph 8a of these conditions shall be in lieu of any warranties and conditions whether express or implied by statute common law or otherwise required, such warranties and conditions are hereby expressly excluded.

d. The Company's responsibility is limited to the terms of this warranty and (except in respect of death or personal injury resulting from the negligence of the Company, its servants or agents) the Company shall not be liable for any claim for direct or indirect consequential or incidental loss, injury or damage made by the Buyer against the Company arising out of or in connection with any defect in the goods, work or materials which are the subject of the Contract whether or not such defect is directly or indirectly wholly or in part caused by the negligence act omission default or neglect of the Company, his servants or agents or whether or not such defect amounts to be a breach of a fundamental term of the Contract.

e. Notwithstanding the provisions of this warranty if the Contract is for a consumer save as defined by Section 12 of the Unfair Contract Terms act 1977 nothing contained herein shall operate to exclude any warranty implied by the said Act.

9. TITLE TO GOODS

a. Until payment in full has been received for all goods, work, labour, plant and materials comprised in this or any other contract between the Company and the Buyer full legal and beneficial ownership of the goods and materials comprised in the Contract shall be retained by the Company notwithstanding that the risk in the same shall pass to the Buyer at the time of delivery or installation.

b. Until payment in full for the goods and materials has been made the Buyer shall hold the same as bailee of the Company and

shall at all times take proper care of them.

c. If any one or more of the events referred to in paragraph 9 e should occur then the Buyer shall place all goods and materials supplied by the Company at the Company's disposal and the Company's servants and agents shall be entitled to enter upon the premises of the Buyer for the purpose of serving and/or removing all such goods and materials. If any goods and materials are in the custody or control of any individual firm or company other than the Buyer then the Buyer shall immediately provide the Company with an authority in writing to collect the same.

d. Events:

   i. The Buyer is in default for longer than seven days in the payment of any sums whatsoever due to the Company (whether in respect of this Contract or any other contract between the Company and the Buyer)

   ii. If the Company has reasonable doubts as to the solvency of the Buyer

   iii. If a Receiver is appointed over any of the assets or undertakings of the Buyer or a winding up order made against the Buyer or the Buyer goes into voluntary liquidation (otherwise that for the purpose of reconstruction or amalgamation) or calls a meeting or makes any arrangement with his creditors or commits an act of bankruptcy.

10. INSURANCE

The risk in the goods and materials shall pass to the Buyer at the time of delivery to the Buyer's sites and/or premises. The reservation of title contained in paragraph 9 of these conditions shall not affect the Buyers responsibility to effect insurance cover which he may consider be appropriate.

11. INSTALLATION OR WORK UPON BUYERS SITES AND/OR PREMISES

a. If the Contract requires the Company to carry out the execution of work upon the Buyer's sites and/or premises (or sites and/or premises of a third party) then the Buyer shall undertake to provide or have provided proper and safe storage for all goods and materials as well as the Company's plant and equipment necessary for completion of the Contract. The Buyer shall in addition ensure that the Company, it's servants and agents have free an safe access to that part of the site and/or premises where the execution of the Contract or other work is to be carried out and that all services and facilities necessary to enable the work to be carried out have been provided.

b. The Company has assumed in submitting its quotation that the following conditions prevail at the Buyer's sites/ premises or at the sites/premises where the works are to be affected

   i. That all areas are entirely suitable to receive the proposed works.

   ii. That the contractor has free movement around the site to enable the works to carried out

   iii. That the areas of work and those immediately adjacent to the areas of work are free from live services.

c. The Buyer shall reimburse the Company for any direct or consequential costs, charges, expenses or losses the Company incurs as a result of the Buyers failure to comply with any or all of the provisions of paragraph 11a and/or if the Buyer fails to advise the Company when the conditions referred to in paragraph 11b do not apply.

12. ERRORS

The Company reserves the right to correct any clerical or typographical errors made by its employees, servants or agents at any time.

13. HEALTH AND SAFETY

The attention of the Buyer is drawn to the provisions of Section 6 of the Health and Safety at Work Act 1974. The Company will make available upon request information on the design construction and installation of its products to ensure that as far as is reasonably practicable they are safe and without risk to health when properly used. It is the responsibility of the Buyer to take steps as are necessary to ensure that the appropriate relevant information is made available to his servants, agents or any person to whom the Buyer supplies them and to any other person the Buyer reasonably considers should have knowledge thereof.

14. SERVERANCE

If at any time any one or more of the provisions of these conditions becomes invalid, illegal or unenforceable in any respect under any law the validity and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

15. JURISDICTION

These conditions and each and every contract made pursuant thereto shall be governed by and consulted in all respects in accordance with the laws of England.