

T H WHITE STANDARD CONDITIONS OF SALE

1. DEFINITIONS

- "The Company"** T H WHITE Ltd (its trading brands including Palfinger UK), T H WHITE Installation Ltd, T H WHITE Machinery Imports Ltd
"The Purchaser" Any legal entity or person placing an order for, or receiving, Goods or Services supplied by the Company.
"Goods" Any machine, vehicle, crane, fixed equipment, spare part or sundry item in which the Company trades.
"Services" Work on equipment not owned by the Company carried out at the Purchaser's request.
"Contract" The agreement between the Company and the Purchaser as set out in these standard conditions of sale including each order made pursuant to them.

2. DELIVERY

Orders for Wholegoods, Goods and Services are accepted by the Company in good faith, but the Company cannot guarantee delivery or completion by any date and shall not be liable for any loss or damage which may result.

3. PRICE

Except for Goods that are available from the Company's stock at the time of order, the Company reserves the right to charge the price ruling at the time of delivery if necessitated by fluctuations in wholegoods, goods, raw materials and labour costs or currency fluctuations. Prices are subject to Value Added Tax where applicable. **Specific to Palfinger UK:** Quoted wholegoods, installation & bodywork are indicative only and will be subject to a Dynamic Index Review 12 weeks prior to the order being ready for shipping ex-works Austria. Should the D.I.R. demonstrate that material and production costs exceed the amount quoted at point of order, the Purchaser will be advised of the revised price and given the opportunity to cancel the order at that point. Orders cannot progress without acceptance of this condition.

4. PAYMENT

- (a) When the Purchaser places an order with the Company, terms of payment may be agreed which are specific to that order. In the absence of specific payment terms, the invoices shall be credited to the Purchaser's account and such invoices are due in full by the Purchaser, by the 25th day of the month following the date of invoice (Due Date).
(b) Accounts not paid by the Due Date will be liable to an interest charge for late payment of 2% per month. Time for payment shall be the essence of the contract. If the Purchaser should be in default of payment due to the Company, the Company shall have the right to suspend deliveries of Goods and Services to the Purchaser. The Purchaser will remain liable for payment for all Goods delivered or Services performed for them up to the time of suspension, whether invoiced or not.

5. TITLE TO THE GOODS & RISK

- (a) Goods remain in the ownership of the Company until full payment has been received from the Purchaser or his agent. (b) The Purchaser hereby grants an irrevocable license to the Company to enter any premises to remove Goods which have not been paid for within the agreed timescale or where the Purchaser's right to possession has terminated. (c) The risk in the Goods shall pass to the Purchaser on completion of the delivery of the Goods by the Company.

6. SUITABILITY OF GOODS

The Company will, if required to do so, provide the opportunity for a Purchaser to inspect Goods prior to ordering to ensure their suitability for requirements. Thereafter, save as set out in clause 8 hereof and subject to the provisions of the Supply of Goods (Implied Terms) Act 1973 (as amended) the Company gives no warranty that anything supplied is fit for any purpose other than the normal purpose for which it is customarily supplied or that its quality, if new, is other than as warranted by the manufacturer, or if not new and has been inspected by the aforesaid is any better than can be expected for the price paid.

7. CANCELLATION

Order cancellation cannot be accepted without prior agreement in writing by the Company. In the event the Purchaser's request to cancel the order is accepted by the Company, the Purchaser's deposit is forfeited. If the Purchaser fails to take and pay for the Goods within 14 days of notification that what has been ordered is ready for delivery, the Company shall be at liberty to treat the contract as repudiated by the Purchaser and thereupon the deposit shall be forfeited without prejudice to the Company's right to recover from the Purchaser by way of damages any loss or expense which the Company may suffer or incur by reason of the Purchaser's default. If an order is cancelled 6 weeks after issue of the Contract of Sale, the Purchaser remains liable for the Wholegoods element of the order. If any order is postponed by the Purchaser at a stage whereby Wholegoods or Goods ordered from third party suppliers cannot be delayed, the Purchaser is liable to pay for that element in advance of the balance, due at the (revised) completion date.

8. WARRANTY

If any Goods supplied by the Company are found to be of defective workmanship or materials so as to entitle the Purchaser to have them replaced or repaired by or at the cost of the manufacturer the Company undertakes so to do, provided however that any costs or expenses incurred by the Company in such replacement or repair which are not recoverable from the manufacturer by the Company shall be paid to the Company by the Purchaser and provided also that if owing to the failure of the Purchaser to comply with any terms imposed by the manufacturer the manufacturer is not bound to replace or repair the Company shall be under no liability to the Purchaser.

9. USED GOODS WARRANTY

In the event of breakdown of a used machine sold by selected T H WHITE divisions, other than by accident, abuse or fair wear and tear during the first 3 months after sale by the Company, the Company will pay 50% of the retail value of any repair carried out by the Company up to a maximum of 10% of the price paid to the purchaser to the Company for the said used item. The Company is entitled to amend, alter, or vary this clause and its effects and any such amendments will be shown on the Acknowledgement of Order. This Used Machine Warranty does not apply if the machine is covered by T H WHITE Machinery Repair Breakdown Insurance.

10. LIMITATION OF LIABILITY

- (a) All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Sale of Goods and Services Act 1982) are, to the fullest extent permitted by law, excluded from this Contract and any order placed hereunder. (b) The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the contract price relating to the order under which the liability arises.
(c) The Company shall not be liable to the Purchaser for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect, or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

11. APPLICATION OF TERMS

- (a) Sales by the Company will be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Purchaser purports to apply under any purchase order, confirmation of order, specification, or other document). No terms or conditions endorsed upon, delivered with, or contained in the Purchaser's purchase order, confirmation of order, specification or other document will form part of the Contract.
(b) Each order or acceptance of a quotation for Goods by the Purchaser from the Company shall be deemed as acceptance to purchase Goods subject to this contract.

12. DESCRIPTION OF GOODS

All samples, drawings, descriptive matter, specifications, and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published to offer an approximate idea of the Goods described. They do not create a sale by sample.

13. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel a Contract or reduce the volume of the Goods ordered by the Purchaser (without liability to the Purchaser) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company, provided that, if the event in question continues for a continuous period in excess of 90 days, the Purchaser shall be entitled to give notice in writing to the Company to terminate the Contract.

14. THIRD PARTY RIGHTS

Parties to this Contract do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Right of Third Parties) Act 1999 by any person that is not party to it.

15. GOVERNING LAW

The formation, existence, construction, performance, validity, and all aspects of this Contract shall be governed by English Law.

Signature of Applicant: Date: