

## CONDITIONS OF SALE

1. Previous communications  
All previous correspondence or written or verbal communications are to be regarded as superseded and not forming part of the contract.
2. Contract  
No binding contract shall exist until despatch of the Company's written Acceptance of Order and any quotation may be withdrawn or revised at any time prior to the Acceptance of Order being despatched.  
Any oral qualification or statement made in regard to the quotation by any representative or anyone purporting to be a representative of the Company shall not be valid unless confirmed in writing.  
Variations either by deletion from or addition or alteration to the contract will not be carried out until an authorised Variation Order is received by the Company if so requested the Company will forward to the buyer a quotation for a proposed variation.
- 3a. Fluctuating Price Contracts
  - 1) The quotation is based on information available at the date of the quotation, and on prices ruling ten days prior to that date but prices may be varied should there be any change in the existing rate of wages, price of materials, transport or other items during the performance of the contract. Fluctuations will be calculated in accordance with:
    - a) The NEDO formula and
    - b) The PSA Monthly Bulletin of Indices.
  - 2) Prices quoted include delivery using normal company transport. If equipment or materials are required to be delivered by special transport, this will be charged extra.
  - 3) The cost of reinstatement of structures, finished and decoration and of highways, footpaths and grass verges affected by the installation work is excluded from the quotation.
- 3b Fixed Price Contracts
  - 1) The quotation is based on information available at the date of the quotation and on prices ruling 10 days prior the that date and are firm for the period stated in the quotation. If extra expense is incurred as a result of inaccuracies in such information or of the buyer's instructions or lack of instructions the Company shall be entitled to recover such extra expense from the buyer,
  - 2) Prices quoted include delivery using normal Company transport. If equipment or materials are required to be delivered by special transport this will be charged extra.
  - 3) The cost of reinstatement of structures, finishes and decoration and of highway footpaths and grass verges affected by the installation work is excluded from the quotation.
4. Sub Contracting  
The Company shall be entitled to sub contract any work relating to the contract.
5. Work on site
  - 1) The Company may deliver materials and equipment to the site prior to the commencement of installation in which case the buyer shall, if so requested by the company, provide secure storage facilities for such materials and equipment free of charge.
  - 2) If the Company 's engineers or sub contractor's are unable, as a result of circumstances prevailing on site, which are beyond their control, to commence, progress or complete the installation of the equipment, the Company shall be entitled to charge for any additional labour costs, travelling, subsistence or other Expenses incurred by the company by reason of such circumstances.
6. Delay in Delivery  
All despatch dates quoted are estimated, are not guaranteed and do not form a term of this contract. Whilst, every effort is made to comply with these dates, the seller accepts no liability for delay in despatch of delivery or for any loss occasioned thereby.
7. Performance of Contract  
Failure to deliver the equipment or, where the contract provides for the delivery by instalments, Failure, to deliver any instalment in whole or part shall not entitle the buyer to cancel the contract and will not give rise to any liability upon the Company.
8. Payment  
Payment shall be made as follows: -
  - a) Interim claims-within 17 days of the date of issue of the Architect's certificate.
  - b) Invoices- within 30 days of the date of invoice.
  - c) Retentions – within 14 days of the expiration of the warranty period.

If any payment is not made within the time stipulated, the company may, without prejudice to any other of its rights under these Conditions, charge interest on the amount, then outstanding at the rate of 6 percent above the Base Rate for the time being of National Westminster Bank PLC, such interest, being calculated on a day –to-day basis.
9. Exclusion of Conditions and Warranties  
Save as provided in these Conditions and save for the seller's implied undertakings as to title etc, contained in S.12 of the Sale of Goods Act 1979, all conditions and warranties express or implied, statutory or otherwise, and accept as provided in S.2 of the Unfair Contract Terms 1977(liability for death or personal injury resulting from negligence) all other obligations and liabilities whatsoever of the seller whether in contract or in tort or otherwise are excluded.
10. Direct, Indirect of Consequential Loss or Damage  
Except as provided in S.2 of the Unfair Contract Terms Act 1977 (liability for death or personal injury resulting from negligence) the seller accepts no responsibility in any circumstances for any direct, indirect or consequential loss or damage howsoever arising which the buyer may sustain in connection with goods supplied whether such goods are of the seller's own manufacture or not.
11. Consumer Contracts  
Where the buyer deals as a Consumer within Section 12 of the Unfair Contract Terms Act 1977, then nothing contained in these conditions shall restrict or affect the statutory rights of the buyer.

12. Company's Liability for Defects

Subject to fair and proper usage by skilled operators the Company 's liability for defects in the equipment or any part thereof or for the installation of such equipment or any part thereof shall be limited to making good at its own cost during the period of 26 weeks from the date of commissioning of the whole or part of the equipment in question by repair, or at its option, replacement any failure or defect arising from faulty materials or workmanship, provided that the equipment shall not have been:

- a) repaired or tampered with by any person not authorised by the Company or
- b) damage by fire, water or storm (including electrical storm)

At the expiration of the said period of 26 weeks, all liability on the part of the Company shall cease and no responsibility will thereafter be accepted for any defects whether latent or patent.

13. Indemnity

The buyer shall indemnify the Company against all claims in respect of any loss, injury or damage sustained by a third party arising from the sale of the equipment to the buyer howsoever caused and also against all actions proceedings, costs, claims demands and expenses arising from the manufacture of supply of any equipment or the doing of any work or the use of any article or material by the Company to the design or specification or upon the instructions or order of the buyer.

14. Lien

In addition to any right of lien given by law, the seller shall have a general lien upon all goods to be supplied to the buyer in respect of all sums due from or claims against the buyer. Without prejudice to any other rights given by law to the seller, the seller may, upon fourteen days' notice to the buyer, sell any goods of the buyer upon which the seller has any lien and, where the property in such goods is at the time of such sale in the buyer, shall be deemed to be his agent for the purpose of affecting such sale. The seller may apply the proceeds of such sale towards the satisfaction of sums due from or claims against the buyer without prejudice to the seller's right to recover the balance thereof from the buyer.

15. Force Majeure

- 1) If the performance of the contract shall be delayed by any circumstances or conditions beyond the control of the seller including (but without prejudice to the generality of the foregoing) war, industrial disputes, strikes, lock-outs, riots, fire, storm, Act of God, accidents, non-availability or storage of materials or labour, any statute, rule, bylaw, order or requisition made or issued by any Government or Government Department, local or other duty constituted authority, then the seller shall have the right to suspend further performance of the contract until such time as the cause of the delay shall no longer be present.
- 2) If the performance of the contract shall be delayed by any circumstances or conditions beyond the control of the seller, then the seller shall have the right to be discharged from further performance of and liability under the contract. If the seller exercises such right, the buyer shall thereupon pay the contract price less a reasonable allowance for what has not been performed by the seller,

16. Arbitration

Any dispute, difference or question which shall at any time arise between the parties hereto as to the construction, meaning or effect of this Agreement or of any clause or thing herein contained or the rights and liabilities of the parties hereunder or otherwise, howsoever relating thereto shall be referred to the decision of a single arbitrator to be nominated in the event of disagreement between the parties by the President for the time being of the London Chamber of Commerce and shall be deemed to be an arbitration agreement within the meaning of the Arbitration Act 1950 or any Statutory re-enactment thereof.

17. Law

The contract shall be subject to and interpreted in accordance with the laws of England.

18. The 'Seller' and 'The Company' shall mean Hazard Safety Products Limited, Registered in England 3036025.